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Thursday
November 4, 1999

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Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

Proclamation 7246 of October 30, 1999

Child Mental Health Month, 1999

By the President of the United States of America

A Proclamation

As a Nation, we have made much progress in ensuring the physical health of our young people. But we are only beginning to make similar strides in protecting their mental health. The symptoms of mental illness in children and adolescents too often go unrecognized and therefore untreated—a tragic failing that can lead to profound effects on their development. Even very young children can experience anxiety and depressive disorders that can have a long-term negative impact on their social interactions at home and at school.

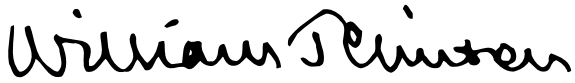
Unfortunately, our attitudes regarding mental illness have compounded this problem. While we now know that more than one in five Americans experiences some form of mental illness each year, that many mental disorders are biological, and that they can be treated medically, too many people still believe that mental illness is a personal failure. Because of this widespread misconception, many parents are reluctant to acknowledge that their children need help, and many children who need help are afraid to ask for it.

During Child Mental Health Month, I encourage all parents, teachers, pediatricians, school nurses, other health care professionals, and concerned citizens across our country to learn more about children's mental health. By doing so, we can recognize more quickly the early warning signs of mental illnesses and disorders. We can detect depression before it deepens into serious illness, raise awareness of risk factors for suicide, and work to prevent more acts of youth violence.

We must do all we can to intervene in the lives of young people who are mentally or emotionally unstable before they cause harm to themselves or to others. I am pleased that some schools have responded to the recent youth violence tragedies by improving mental health services, expanding after-school and mentoring programs, and offering in-home counseling for vulnerable families. To ensure the success of these efforts, we must work to fight the stigma and dispel the myths that surround mental illness. By engaging in efforts that raise public awareness of our children's mental health, we can replace stigma with acceptance, ignorance with understanding, and fear with new hope for the future.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 1999 as Child Mental Health Month. I call upon families, schools, communities, and governments to dedicate themselves to promoting the mental health and well-being of all our children.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of October, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-fourth.



[FR Doc. 99–29048
Filed 11–3–99; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7247 of November 1, 1999

National American Indian Heritage Month, 1999

By the President of the United States of America

A Proclamation

Ours is a nation inextricably linked to the histories of the many peoples who first inhabited this great land. Everywhere around us are reminders of the legacy of America's first inhabitants. Their history speaks to us through the names of our cities, lakes, and rivers; the food on our tables; the magnificent ruins of ancient communities; and, most important, the lives of the people who retain the cultural, spiritual, linguistic, and kinship bonds that have existed for millennia.

As we reflect on the heritage of American Indians, Alaska Natives, and Native Hawaiians, we also reaffirm our commitment to fostering a prosperous future for native youth and children. At the foundation of these efforts is our work to provide a quality education to all Native American children. In particular, we have sought significantly increased funding to support Bureau of Indian Affairs school construction and 1,000 new teachers for American Indian youth. My 1998 Executive order on American Indian and Alaska Native Education sets goals to improve high school completion rates and improve performance in reading and mathematics. And we are working to get computers into every classroom and to expand the use of educational technology.

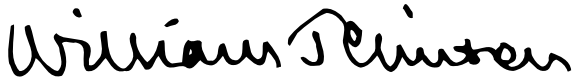
We are also seeking ways to empower Native American communities and help them prosper. My Administration is expanding consultation and collaborative decision-making with tribal governments to promote self-determination. We also support tribal government economic development initiatives, particularly those that increase or enhance the infrastructure necessary for long-term economic growth. My New Markets Initiative seeks to leverage public and private investment to boost economic development in areas that have not shared in our recent national prosperity. In July, I visited the Pine Ridge Reservation of the Oglala Sioux, as part of my New Markets Tour, to explore opportunities for economic development in Indian Country.

Among the most serious barriers to economic growth facing tribal communities is a lack of housing, physical infrastructure, and essential services. My Administration is working with tribal leaders to build and renovate affordable housing on tribal lands, bring quality drinking water to economically distressed Indian communities, and improve public safety. We are moving to assist tribal governments in developing the physical infrastructure needed for economic development, including roads, fiber-optic cabling, and electric power lines.

In working together to shape a brighter future for Indian Country, we must not lose sight of the rich history of Native Americans. Just weeks ago, the Smithsonian Institution broke ground on the National Mall for the National Museum of the American Indian. This wonderful facility will preserve and celebrate the art, history, and culture of America's indigenous peoples. It is also fitting that the first U.S. dollar coin of the new millennium will bear the likeness of Sacajawea and her infant son—an image that captures the importance of our shared history.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim November 1999 as National American Indian Heritage Month. I urge all Americans, as well as their elected representatives at the Federal, State, local, and tribal levels, to observe this month with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of November, in the year of our Lord nineteen hundred and ninety-nine, and of the Independence of the United States of America the two hundred and twenty-fourth.



[FR Doc. 99–29049
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Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI90

Prevailing Rate Systems; Abolishment of the Dubuque, IA Appropriated Fund Wage Area

AGENCY: Office of Personnel Management.
ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing an interim rule that will remove the requirement that a full-scale wage survey be conducted in the Dubuque, Iowa, Federal Wage System (FWS) wage area. It will also abolish the Dubuque, IA, FWS wage area and redefine the counties of Clinton, Dubuque, and Jackson, IA, and Carroll, Jo Daviess, and Whiteside, Illinois, to the area of application of the Davenport-Rock Island-Moline, IA, FWS wage area. The interim rule is necessary because of the pending closure of the Dubuque wage area's host installation, the Savannah Army Depot, which is no longer capable of hosting annual wage surveys.

DATES: *Effective date:* This interim rule is effective on October 31, 1999. *Applicability date:* Employees in the Dubuque wage area will be transferred to the Davenport wage area on the first day of the first applicable pay period beginning on or after December 19, 1999. Comments must be received by December 6, 1999.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415–8200, or FAX: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Jennifer Hopkins by phone at (202) 606–2848, by FAX at (202) 606–0824, or by email at jdhopkin@opm.gov.

SUPPLEMENTARY INFORMATION: Because of the pending closure of the Savannah Army Depot, the Department of Defense (DOD) has requested that the Office of Personnel Management (OPM) abolish the requirement to conduct a full-scale wage survey in the Dubuque wage area. DOD has also requested that OPM abolish the Dubuque wage area and redefine its counties to the Davenport, IA, FWS wage area. The Dubuque wage area is presently composed of six survey counties: Clinton, Dubuque, and Jackson, IA, and Carroll, Jo Daviess, and Whiteside, IL.

The Dubuque wage area's host installation, the Savannah Army Depot, is preparing to close in March 2000. This closure will leave the lead agency, DOD, without an installation in the survey area capable of hosting annual local wage surveys. A full-scale wage survey is scheduled to begin in the Dubuque wage area in October 1999. Since the host installation is preparing to close and is downsizing its operations, it no longer has the capacity to host the annual local full-scale wage survey.

Under section 5343 of title 5, United States Code, OPM is responsible for defining wage areas and follows regulatory criteria under section 532.211 of title 5, Code of Federal Regulations. Under the regulatory criteria, OPM considers the following factors when defining wage areas:

(i) Distance, transportation facilities, and geographical features;

(ii) Commuting patterns; and

(iii) Similarities in overall population, employment, and the kinds and sizes of private industrial establishments.

Based on an analysis of these regulatory criteria, OPM is defining the Dubuque wage area to the area of application of the Davenport wage area. The closest major Federal installation to the Savannah Army Depot is the Rock Island Arsenal in the Davenport survey area, which is approximately 113 km (70 miles) away. Transportation facilities, geographic features, and commuting patterns do not favor one wage area more than another. A review of overall population, employment, and kinds and sizes of private industrial establishment shows that the Dubuque wage area has a population and workforce that most closely resemble the population and workforce of the Davenport survey area. The Dubuque survey area is similar to the Davenport survey area in terms of the distribution of employment in surveyable industries, with a high proportion of employment in the manufacturing sector.

The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, reviewed these recommendations and by consensus recommended approval of these changes.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of title 5, United States Code, I find good cause exists for waiving the general notice of proposed rulemaking. Also, pursuant to 5 U.S.C. 553(d)(3) I find that good cause exists for making this rule effective in less than 30 days. The notice is being waived and the regulation is being made effective in less than 30 days because the Dubuque wage survey would otherwise be ordered in October 1999 and preparations for the wage survey must begin immediately.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.
Janice R. Lachance
Director.

Accordingly, the Office of Personnel Management is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix A to Subpart B—[Amended]

2. Appendix A to subpart B of part 532 is amended for the State of Iowa by removing the entry for Dubuque.

3. Appendix C to subpart B is amended by removing the wage area listing for Dubuque, Iowa, and revising the Davenport-Rock Island-Moline, IA, listing to read as follows:

Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

* * * * *

Iowa

* * * * *

Davenport-Rock Island-Moline

Survey Area

Iowa:
Scott
Illinois:
Henry
Rock Island

Area of Application. Survey Area Plus

Iowa:
Clinton
Des Moines
Dubuque
Jackson
Lee
Louisa
Muscatine
Illinois:
Adams
Brown
Bureau
Carroll
Cass
Fulton
Hancock
Henderson
Jo Daviess
Knox
McDonough
Marshall
Mason
Mercer
Peoria
Putnam
Schuyler
Stark
Tazewell
Warren
Whiteside
Woodford

[FR Doc. 99–28875 Filed 11–3–99; 8:45 am]
BILLING CODE 6325–01–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 99–080–1]

Citrus Canker Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the citrus canker regulations to allow citrus fruit produced outside the quarantined areas to be moved into a quarantined area for packing and then moved from that quarantined area to any destination in the United States, including commercial citrus-producing areas. The citrus fruit produced outside the quarantined areas would have to be moved and handled according to specific conditions designed to prevent the artificial spread of citrus canker, including conditions to prevent its commingling with, and possible contamination by, citrus fruit produced within a quarantined area. We are taking this action to relieve unnecessary restrictions on regulated fruit originating outside a quarantined area but packed within a quarantined area.

DATES: This interim rule was effective October 29, 1999. We invite you to comment on this docket. We will consider all comments that we receive by January 3, 2000.

ADDRESSES: Please send your comment and three copies to: Docket No. 99–080–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 99–080–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Poe, Operations Officer, Program Support Staff, PPQ, APHIS, 4700 River Road, Unit 134, Riverdale, MD 20737–1236; (301) 734–8247.

SUPPLEMENTARY INFORMATION:

Background

Citrus canker is a plant disease that affects plants and plant parts, including fresh fruit, of citrus and citrus relatives (Family Rutaceae). Citrus canker can cause defoliation and other serious damage to the leaves and twigs of susceptible plants. It can also cause lesions on the fruit of infected plants, which renders the fruit unmarketable, and cause infected fruit to drop from the trees before reaching maturity. The aggressive A (Asiatic) strain of citrus canker can infect susceptible plants rapidly and lead to extensive economic losses in commercial citrus-producing areas.

The regulations to prevent the interstate spread of citrus canker are contained in 7 CFR 301.75–1 through 301.75–14 (referred to below as the regulations). The regulations restrict the interstate movement of regulated articles from and through areas quarantined because of citrus canker and provide conditions under which regulated fruit may be moved into, through, and from quarantined areas for packing. The regulations currently list parts of Broward, Collier, Dade, and Manatee Counties, FL, as quarantined areas for citrus canker.

Among the entities that are affected by the restrictions of the regulations are producers of regulated fruit and packing plants that handle regulated fruit. With regard to the packing and movement of regulated fruit, the regulations have provided for the three sets of circumstances that may face producers and packers when areas within a State are quarantined for citrus canker:

- The regulated fruit is both produced and packed in a quarantined area (§ 301.75–7(a));
- The regulated fruit is produced in a quarantined area and packed outside the quarantined areas (§ 301.75–4(d)(2)(ii)); and
- The regulated fruit is produced outside the quarantined areas and packed in a quarantined area (§ 301.75–7(b)).

In each of these three situations, the regulations provide specific conditions that must be met in order for the fruit to qualify for interstate movement after packing, and in each case the regulated fruit may not be moved into commercial citrus-producing areas of the United States after packing.

When the most recent additions were made to the quarantined areas in an interim rule effective January 26, 1999, and published in the **Federal Register** on February 1, 1999 (64 FR 4777–4780, Docket No. 95–086–2), approximately 13 citrus fruit packing plants fell within the quarantined areas. It has come to our attention that at least one of the packing plants located in the quarantined areas could expect to encounter significant financial hardship as a result of that quarantine action due to the fact that a large portion of the packer's business involves shipping gift fruit to areas of Florida located outside the quarantined areas. As noted in the previous paragraph, regulated fruit packed in a quarantined area may not be moved into commercial citrus-producing areas, so the operator of this packing plant could expect to see his business drastically curtailed as a direct result of the inclusion of his plant in a quarantined area.

In an effort to minimize the expected significant economic effects on this, and potentially other, fruit packing operations, we reexamined our citrus canker regulations with an eye toward identifying potential alternatives to the prohibition on the movement of regulated fruit that has been packed within a quarantined area. After consulting with our Citrus Canker Eradication Program staff, various citrus packer groups, and the Florida Department of Agriculture and Consumer Services, we concluded that a regulatory approach that incorporated the segregation of fruit within the packing plant—*i.e.,* keeping regulated fruit produced outside the quarantined areas physically separated from regulated fruit produced within a quarantined area—and other safeguards would allow packing plants located within a quarantined area to move regulated fruit from outside a citrus canker quarantined area into a quarantined area for packing under certain conditions and then ship it to any area of the United States, including commercial citrus-producing areas. This approach is consistent with § 301.75–4(d)(2)(ii) of the regulations, which provides conditions, including fruit segregation, that allow regulated fruit produced both within and outside the quarantined areas to be packed in plants located outside the quarantined areas without affecting the ability of those plants to move regulated fruit produced outside the quarantined areas to any destination, including commercial citrus-producing areas. Similarly, Florida's State-run Caribbean fruit fly (Carib fly) program has for several years successfully provided for fruit produced both within and outside the areas regulated for Carib fly to be packed in plants located within regulated areas under conditions that include fruit segregation.

Based on these considerations, we have amended the citrus canker regulations to provide conditions under which regulated fruit produced outside the quarantined areas may be packed within a quarantined area and subsequently moved into any area of the United States, including commercial citrus-producing areas. These conditions, which incorporate features drawn from elsewhere in our citrus canker regulations and include specific documentation, cleaning, disinfection, and handling requirements in addition to fruit segregation, are explained in detail below.

We believe that most producers and packers of regulated fruit will be willing to observe the conditions set forth in this interim rule in order to qualify regulated fruit produced outside the quarantined areas but packed within a quarantined area for movement to all areas of the United States, including commercial citrus-producing areas. However, we acknowledge that there may be some producers or packers who wish to continue to use the current provisions in § 301.75–7(b) for the packing of fruit within a quarantined area, which is not then eligible to be shipped to commercial citrus-producing areas. These provisions may be preferred by packers who do not wish to take the extra step of keeping regulated fruit produced outside the quarantined areas segregated from fruit produced within a quarantined area. Therefore, we are retaining the original provisions of § 301.75–7(b) in this interim rule; those provisions will now be found in § 301.75–7(b)(1).

New § 301.75–7(b)(2) contains conditions under which regulated fruit produced outside the quarantined areas but packed within a quarantined area may be moved interstate to any area of the United States, including commercial citrus-producing areas. We have revised the introductory text of § 301.75–7(b) to indicate that there are now two options available to qualify regulated fruit produced outside the quarantined areas for subsequent movement when that fruit is packed in a plant located within a quarantined area.

Under the provisions of new paragraph § 301.75–7(b)(2), regulated fruit produced outside the quarantined areas but packed in a plant located within a quarantined area will be eligible for movement into any area of the United States, including commercial citrus-producing areas, under the following conditions:

Documentation. The regulated fruit produced outside the quarantined areas must be accompanied to the packing plant by a document that states the location of the grove where the fruit was produced, the variety and quantity of fruit, the address to which the fruit will be delivered for packing, and the date the movement of the fruit began. This documentation serves to establish that the regulated fruit was produced in an area outside the quarantined areas and, by providing a record of the amount and type of fruit in the shipment, helps ensure that regulated fruit from other sources is not added to the shipment during movement.

Unloading and loading. The regulated fruit produced outside the quarantined areas must be moved through the quarantined area without being unloaded, and no regulated article may be added to the shipment in the quarantined area. Keeping the regulated fruit produced outside the quarantined areas separated from fruit produced within a quarantined area is one of the primary safeguards of these new provisions, so this requirement is necessary to ensure that the integrity of the shipment is maintained from the time the fruit is loaded in the nonquarantined production area to the time it is unloaded at the packing plant. Producers or packers who wish to pick up additional regulated fruit produced within the quarantined area while en route to the packing plant may still do so under the provisions of § 301.75–7(b)(1), but, as noted above, fruit from that packing plant will be ineligible for movement into commercial citrus-producing areas.

Protecting the shipment. The regulated fruit produced outside the quarantined areas must be completely covered, or enclosed in containers or in a compartment of a vehicle, both during its movement to a packing plant in a quarantined area and during its movement from a packing plant in a quarantined area to destinations outside that quarantined area. This requirement is necessary to protect the regulated fruit produced outside the quarantined areas from the possibility of contamination during its movement through the quarantined area.

Segregation and treatment. At the packing plant, the regulated fruit produced outside the quarantined areas must be stored separately from, and have no contact with, regulated fruit produced in a quarantined area. Any equipment at the packing plant that comes in contact with regulated fruit produced in a quarantined area must be

treated in accordance with § 310.75–11(d) of this subpart before being used to handle any regulated fruit not produced in a quarantined area. Requiring the regulated fruit produced outside a quarantined area to be segregated from other fruit within the packing plant will prevent the commingling of the two types of fruit, thus preventing the contamination that could occur as a result of that commingling, and will ensure that only fruit produced outside the quarantined areas is moved interstate to commercial citrus-producing areas. Similarly, the application of the cleaning and disinfection measures of § 301.75–11(d) to the handling equipment in the plant will prevent regulated fruit produced outside a quarantined area from becoming contaminated by equipment that has been used to handle fruit produced within a quarantined area.

Fruit treatment. The regulated fruit produced outside the quarantined areas must be treated at the packing plant in accordance with § 301.75–11(a) of the regulations. While regulated fruit produced outside a quarantined area does not present the same citrus canker risks as fruit produced within a regulated area, we are nonetheless requiring it to be treated with sodium hypochlorite or sodium o-phenyl phenate (SOPP) in accordance with § 301.75–11(a) as a redundant safeguarding measure, given that the fruit is being packed within a quarantined area and will be eligible for movement into commercial citrus-producing areas. Beyond the role of those treatments in mitigating the risks posed by citrus canker, we understand that sodium hypochlorite and SOPP treatments, as well as additional measures such as fruit waxing, are standard packing industry practices even outside the quarantined areas because such measures help prevent fruit spoilage. That consideration, plus the fact that packing plants within the quarantined areas are already equipped to apply the required treatments, lead us to believe that this requirement will not impose any additional burdens on the operators of packing plants.

Handling of culls and debris. Due to the likelihood that they will be commingled with similar regulated articles collected from regulated fruit produced in a quarantined area, all leaves, litter, and culls collected at the packing plant from the shipment of regulated fruit produced outside the quarantined areas must be handled as prescribed in § 301.75–4(d)(2)(ii)(E) of the regulations. Paragraph (d) of § 301.75–4 contains the conditions that must be met in order for less than an entire State to be designated as a quarantined area; those conditions include the specific provisions for the intrastate movement and handling of leaves, litter, and culls cited above as appearing in § 301.75–4(d)(2)(i)(E). Those requirements, which include the incineration or burying in a fenced public landfill of such articles and the option of processing culls into a product other than fresh fruit (e.g., juice or juice concentrate), are intended to prevent the artificial spread of citrus canker that could occur through the movement of leaves, litter, and culls. Given that it usually takes some time before a sufficiently large load of, for example, leaves and litter to be collected to warrant a trip to the landfill, we believe that it is likely that packing plant operators will store the leaves, litter, and culls collected from the shipment of regulated fruit produced outside the quarantined areas with similar articles collected from shipments of regulated fruit produced within the quarantined area. Therefore, we believe that it is necessary to require that all those regulated articles, regardless of their origin, be handled in the same manner as the regulated articles presenting the highest risk.

Certificate. The regulated fruit produced outside the quarantined areas maybe moved interstate from the packing plant to any destination if it is accompanied by a certificate issued in accordance with § 301.75–12 of the regulations. The certificate will provide documentation that the requirements of this interim rule have been met. Under the regulations, a certificate is used to authorize the interstate movement of a regulated article from a quarantined area into any area of the United States, and a limited permit is used to authorize the movement of regulated articles from the quarantined areas, but with restrictions on the areas of the United States into which the articles may be moved. Because regulated fruit produced outside the quarantined areas and handled in accordance with the new provisions of this interim rule will be eligible for movement to any area of the United States, including commercial citrus-producing areas, a certificate, and not a limited permit, will be required.

Regulated fruit produced outside the quarantined areas can be packed within a quarantined area and moved into any area of the United States, including commercial citrus-producing areas, under the conditions set forth in this interim rule without contributing to the artificial spread of citrus canker. Although our pest data sheet for citrus canker [1] indicates that the causal pathogen could potentially move long distances on diseased fruit, that data sheet also states that there is no authenticated example of a citrus canker outbreak that was initiated by diseased fruit. If diseased fruit is an unlikely pathway for the spread of citrus canker, then it is reasonable to expect that fruit produced outside the quarantined areas, which is the only fruit affected by this rule, will present an even lower risk, even if it is packed within a quarantined area. Given the preponderance of evidence and expert opinion that the long-distance spread of citrus canker occurs primarily through the movement of infected planting and propagative materials, and given the absence of documented cases of citrus canker outbreaks attributable to the movement of infected fruit, we have concluded that regulated fruit produced outside the quarantined areas and handled, treated, and packed under the conditions of this rule will present a negligible disease risk.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. Immediate action is necessary to provide, prior to the start of the winter shipping season, conditions under which regulated fruit produced outside the quarantined areas but packed within a quarantined area may be moved into any area of the United States, including commercial citrus-producing areas.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this action effective upon signature. We will consider comments that are received within 60 days of publication of this rule in the **Federal Register**. After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866

[1] This pest data sheet may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT**.

and, therefore, has not been reviewed by the Office of Management and Budget.

This rule amends the citrus canker regulations to allow citrus fruit produced outside the quarantined areas to be moved into a quarantined area for packing and then moved from that quarantined area to any destination in the United States, including commercial citrus-producing areas. The citrus fruit produced outside the quarantined areas would have to be moved and handled according to specific conditions designed to prevent the artificial spread of citrus canker, including conditions to prevent its commingling with, and possible contamination by, citrus fruit produced within a quarantined area. We are taking this action to relieve restrictions that are no longer warranted due to our development of alternatives to address the disease risks presented by regulated fruit packed within a quarantined area.

The overall economic effect of this interim rule is expected to be small. Prior to this interim rule, the regulations already provided for fruit produced within a quarantined area to be packed in plants located outside the quarantined areas and vice versa, and the experience of the cooperative Citrus Canker Eradication Program administered by APHIS and the State of Florida has shown that packing fresh fruit from quarantined and nonquarantined areas in the same facility can be safely conducted. Whereas the regulations had previously prohibited regulated fruit packed within a quarantined area from being moved into commercial citrus-producing areas of the United States, regardless of where the fruit was produced, this interim rule provides conditions under which packing plants located within a quarantined area may ship regulated fruit produced outside the quarantined areas to all areas of the United States, including commercial citrus-producing areas. In so doing, this interim rule makes it possible for packing plants to move regulated fruit into markets that had been denied to them from the time the plants were included in a quarantined area.

Effect on Small Entities

The Regulatory Flexibility Act requires that agencies specifically consider the economic effects of their rules on small entities. The Small Business Administration's (SBA) definition of a ''small entity'' packaging fresh or farm-dried fruits and vegetables is one whose total sales are less than $5 million annually. In 1997, there were 850 firms in Standard Industrial Classification (SIC) 0723, Crop Preparation Services for Market in the United States, which includes fresh citrus packers. Under SBA guidelines, 634 of these 850 firms (74 percent) would be considered small entities.

Within the quarantined areas, there are approximately 13 citrus fruit packers and 13 gift fruit shippers that could be affected by this rule. We do not currently have the data necessary to determine the percentage of these businesses that would be considered small entities under the SBA's criteria. However, while we expect that this rule will allow some of those packing plants to maintain their established business patterns and others to reestablish business relationships that were disrupted by the packing plants' inclusion in the areas quarantined for citrus canker, the overall economic effect of this rule is expected to be small.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.75–7, paragraph (b) is revised to read as follows:

§ 301.75–7 Interstate movement of regulated fruit from a quarantined area.

* * * * *

(b) Regulated fruit not produced in a quarantined area. Regulated fruit not produced in a quarantined area but moved into a quarantined area for packing may be subsequently moved out of the quarantined area only if all the conditions of either paragraph (b)(1) or (b)(2) of this section are met.

(1) Conditions for subsequent movement into any area of the United States except commercial citrus-producing areas. (i) The regulated fruit was accompanied to the packing plant by a bill of lading stating the location of the grove in which the regulated fruit was produced.

(ii) The regulated fruit was treated in accordance with § 301.75–11(a) of this subpart.

(iii) The regulated fruit is free of leaves, twigs, and other plant parts, except for stems that are less than one inch long and attached to the regulated fruit.

(iv) The regulated fruit is accompanied by a limited permit issued in accordance with § 301.75–12 of this subpart.

(2) Conditions for subsequent movement into any area of the United States including commercial citrus-producing areas. (i) The regulated fruit is accompanied by a bill of lading that states the location of the grove where the fruit was produced, the variety and quantity of fruit, the address to which the fruit will be delivered for packing, and the date the movement of the fruit began.

(ii) The regulated fruit is moved through the quarantined area without being unloaded and no regulated article is added to the shipment in the quarantined area.

(iii) The regulated fruit is completely covered, or enclosed in containers or in a compartment of a vehicle, both during its movement to a packing plant in a quarantined area and during its movement from a packing plant in a quarantined area to destinations outside that quarantined area.

(iv) At the packing plant, regulated fruit produced outside the quarantined areas is stored separately from and has had no contact with regulated fruit produced in a quarantined area. Any equipment at the packing plant that comes in contact with regulated fruit

produced in a quarantined area is treated in accordance with § 310.75–11(d) of this subpart before being used to handle any regulated fruit not produced in a quarantined area.

(v) The regulated fruit is treated at the packing plant in accordance with § 301.75–11(a) of this subpart.

(vi) Due to the likelihood that they will be commingled with similar regulated articles collected from regulated fruit produced in a quarantined area, all leaves, litter, and culls collected from the shipment of regulated fruit at the packing plant are handled as prescribed in § 301.75–4(d)(2)(ii)(E) of this subpart.

(vii) The regulated fruit is accompanied by a certificate issued in accordance with § 301.75–12 of this subpart.

Done in Washington, DC, this 29th day of October 1999.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–28876 Filed 11–3–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 1, 5, and 7

[Docket No. 99–14]

RIN 1557–AB61

Investment Securities; Rules, Policies, and Procedures for Corporate Activities; Bank Activities and Operations

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is updating and clarifying its rules regarding investment securities, corporate activities, and bank activities and operations. Most of the changes involve the OCC's interpretations regarding national bank activities and operations. This final rule clarifies existing rules, adds new provisions based on recent statutory changes, judicial rulings, OCC decisions, and other developments, and makes technical changes. This final rule reflects the OCC's continuing commitment to assess the effectiveness of our rules and to make changes where necessary.

EFFECTIVE DATE: December 6, 1999.

FOR FURTHER INFORMATION CONTACT: Jacqueline Lussier, Senior Attorney, or Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC published a notice of proposed rulemaking in the **Federal Register** on June 14, 1999 (64 FR 31749) inviting comments on proposed changes to several of the OCC's regulations. The OCC received a total of 16 comments, including seven from banks and banking industry representatives, three from states, four from community groups, and one from two individuals. Eight of the commenters favored all or some of the proposed changes, while eight opposed one or more of the proposal's provisions.

The final rule implements most of the initiatives contained in the proposal. However, the OCC has made a number of changes in response to the comments received and to further clarify the rules. The following discussion summarizes the proposed rule, the comments received, and describes the action the OCC has taken in the final rule.

Part 7—Bank Activities and Operations

This final rule changes the name of part 7 from ''Interpretive rulings'' to ''Bank activities and operations'' to better describe the content of part 7.

Messenger Service (§ 7.1012)

The OCC proposed to amend § 7.1012 to conform to caselaw that streamlined the criteria for determining when a national bank is operating a branch. Under the current rule, in order to avoid being treated as a bank branch, a messenger service, including both a messenger service affiliated with a bank and a service that is independent of a bank, generally must both make its services available to the public, including other depository institutions, and retain the ultimate discretion to determine which customers and geographic areas it will serve. 12 CFR 7.1012(c)(2)(ii)(A) and (B).

The recent cases indicate that this test should apply differently depending on whether the service is affiliated with a bank.[1] Pursuant to these cases, a nonaffiliated service need show only that it has the discretion to determine, in its own business judgment, which customers it will serve and where. In contrast, an affiliated service, because it may be more likely to favor its affiliates as a result of its common ownership or control, must show that it actually serves the public generally, including nonaffiliated depository institutions.

The OCC proposed to combine the criteria in §§ 7.1012(c)(2)(ii)(A) and (c)(2)(ii)(B) into one new paragraph and apply the resulting criteria differently depending on whether or not the messenger service is affiliated with the bank. The OCC also proposed a stylistic amendment to § 7.1012(c)(2)(i).

The OCC received three comment letters addressing these proposed changes. Letters from two commenters supported adopting the changes. The third letter, representing the views of three commenters, opposed the changes on the ground that they would encourage national banks to make small loans with short maturities and high rates of interest. The commenters' discussion on this point relies on two premises; first, that the messenger service rule set forth in § 7.1012 authorizes national banks to make loans at non-branch facilities; and, second, that banks will therefore rely on the messenger service rule to make certain types of loans, including so-called payday loans, that would not be permissible if the branching laws applied. Both premises are incorrect.

First, the messenger service rule does not, and could not lawfully, authorize a national bank to conduct the core banking activities of taking deposits, paying checks, or lending money in a non-branch facility. By statute, a branch is defined, subject to certain specified exceptions, as an office or place of business where deposits are received, checks paid, or money lent. 12 U.S.C. 36(j). Section 7.1012 permits a national bank to use a messenger service—a courier, for example—to pick-up and deliver items related to transactions between a bank and its customer, but neither the existing rule, nor the amendment proposed by the OCC, expands the authority of a national bank to conduct core banking activities only at branches. Thus, a bank may find it convenient to use a messenger service to deliver loan proceeds to its customer, but its use of the service in that way

[1] In the proposal, the OCC cited two cases supporting the revision to § 7.1012: *Cades* v. *H&R Block,* 43 F.3d 869 (4th Cir. 1994), *cert. denied,* 515 U.S. 1103 (1995); *Christiansen* v. *Beneficial Nat'l Bank,* 972 F. Supp. 681 (S.D. Ga. 1997). *See* 64 FR at 31749 n.1. These cases held that a tax preparation firm that delivered tax refund anticipation loan (RAL) proceeds to mutual customers of the firm and a national bank was not a branch within the meaning of the branching laws. The standards articulated by both courts in reaching this conclusion formed the basis for the amendment to § 7.1012 that the OCC proposed, and the OCC continues to rely on those cases for that purpose. The principal issue in the cases, however, was the permissibility of certain fees charged by the national bank in connection with the RAL. The fee issue, which both courts resolved in the bank's favor based upon 12 U.S.C. 85, is not relevant to the OCC's amendment to § 7.1012.

does not mean that the loan is made at the offices of the messenger service or that the messenger service is a branch.

Second, the messenger service rule does not control the loan terms, such as maturity or interest rate, that a national bank may offer. The rate of interest a national bank may charge, for example, is governed by 12 U.S.C. 85. The applicability of such laws is unaffected by the OCC's proposed amendment to § 7.1012, which has the distinctly different purpose of conforming to recent judicial precedents the tests used to distinguish affiliated non-branch messenger services from unaffiliated non-branch messenger services in order to ensure that the branching laws are not evaded.

For these reasons, the amendment to § 7.1012 cannot be viewed as affecting payday lending. Accordingly, the OCC believes the concerns of the commenters opposing the amendment are misplaced. The amendment is adopted as proposed.

Independent Undertakings To Pay Against Documents (§ 7.1016)

Section 7.1016 codifies interpretations concerning the issuance by national banks of letters of credit and other independent undertakings. The proposal suggested five technical amendments to update this section.

Two commenters addressed these proposed changes. Both supported adopting the changes. One commenter suggested several additional technical amendments to clarify certain references contained in footnote 1 to § 7.1016 and to make the text of the regulation more precise. For instance, the commenter noted that it is appropriate to refer to the Convention on Independent Guarantees and Stand-by Letters of Credit as a United Nations convention, rather than as a United Nations Commission on International Trade Law convention.

The OCC agrees with the commenter's suggestions for clarifying the rule and adopts them in the final rule. The OCC adopts § 7.1016 as proposed, but with the modifications suggested by the commenter.

National Bank as Guarantor or Surety on Indemnity Bond (§ 7.1017)

The OCC proposed adding a cross-reference in § 7.1017 to § 28.4(c), which states that a national bank may guarantee the liabilities of its foreign operations. This change was proposed in order to remove whatever doubt that may have been created by the relocation [2] of the foreign operations guarantee provision from part 7 to part 28.

The OCC received one comment on this proposed change, from a commenter favoring adoption of the change. The OCC adopts § 7.1017 as proposed.

Ownership of Stock Necessary To Qualify as Director (§ 7.2005)

The OCC proposed revising § 7.2005(b)(4) to codify guidance provided in OCC interpretive letters [3] approving buyback or repurchase agreements between shareholders and prospective directors. This guidance, proposed to be added in new paragraphs (b)(4)(ii), (iii), and (iv) of § 7.2005, states that a buyback agreement may give a director the option of transferring shares back to the transferring shareholder if the director no longer needs those shares to satisfy the ownership requirement. The transferring shareholder may retain a right of first refusal to reacquire the shares if the director seeks to transfer ownership to a third person. Further, a director may assign the right to receive dividends or distributions on the shares back to the original shareholder and execute an irrevocable proxy authorizing the original shareholder to vote the shares. This change was proposed to make it easier for banks, especially community banks, to attract qualified persons to serve on bank boards of directors.

Three commenters addressed this proposed change. All supported its adoption. One commenter requested the OCC to go further and examine whether it is necessary to maintain the qualifying share requirement. However, this requirement is imposed by statute (12 U.S.C. 72). The OCC has recently recommended to Congress that the Comptroller be given the authority to waive the qualifying share requirement, in whole or in part, in the case of national banks that elect Subchapter S status in order to facilitate this form of corporate organization for national banks.[4] In light of the comment received, the OCC will evaluate whether it should recommend to Congress additional changes to section 72.

The OCC adopts § 7.2005(b)(4) as proposed.

Oath of Directors (§ 7.2008)

The OCC proposed adding new paragraph (c) to § 7.2008 and revising the last sentence of § 7.2008(b) to inform national banks that they are to file original executed oaths with the OCC and retain a copy in the bank's records in accordance with the instructions set forth in the Comptroller's Corporate Manual. This guidance is consistent with 12 U.S.C. 73, which states that each director's executed and subscribed oath must be transmitted to the Comptroller of the Currency and filed and preserved in the Comptroller's office for a period of 10 years.

One commenter addressed these proposed changes. This commenter supported their adoption. The OCC adopts § 7.2008(b) and (c) as proposed.

Acquisition and Holding of Shares as Treasury Stock (§ 7.2020)

The OCC proposed amending § 7.2020 to provide examples of legitimate corporate purposes justifying the acquisition by a national bank of its outstanding shares and holding them as treasury stock. These examples include: (a) holding shares in connection with an officer or employee stock option, bonus or repurchase plan; (b) holding shares for sale to a potential director to meet ''qualifying share'' requirements; (c) purchasing a director's qualifying shares upon his or her resignation or death if there is no ready market for the shares; (d) reducing the number of shareholders in order to qualify the bank for reorganization as a Subchapter S corporation; and (e) reducing the number of shareholders to lower the bank's costs associated with shareholder communications and meetings.

As noted in the preamble to the proposed rule, [5] while the OCC expects that this guidance will benefit all national banks, certain of the examples listed as legitimate purposes (namely, purchasing shares upon a director's resignation or death if there is no ready market for the shares and to aid in qualifying the bank for treatment under the tax laws as a Subchapter S

[2] 61 FR 4849 (Feb. 9, 1996) (amending part 7); 61 FR 19524 (May 2, 1996) (amending 12 CFR part 28).

[3] *See, e.g.*, Letter from Julie L. Williams, Chief Counsel (Mar. 31, 1997) (unpublished); Letter from Jonathan Rushdoony, Attorney (Mar. 27, 1986) (unpublished); Letter from Leslie G. Linville, Senior Attorney (Jan. 9, 1986) (unpublished). You can inspect and photocopy the unpublished OCC staff interpretive letters cited in this preamble (in redacted form) at the OCC's Public Disclosure Room, First Floor, 250 E Street, SW, Washington, DC 20219. You can make an appointment to inspect the letters by calling (202) 874–5043.

[4] *See* Testimony of John D. Hawke, Jr., Comptroller of the Currency, Before the Subcommittee on Financial Institutions and Consumer Credit of the Committee on Banking and Financial Services, U.S. House of Representatives, May 12, 1999. You can inspect and photocopy the Comptroller's testimony at the OCC's Public Disclosure Room, First Floor, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the testimony by calling (202) 874–5043. The testimony is also available on the OCC's web site at http://www.occ.treas.gov/ftp/release/99–44a.pdf.

[5] 64 FR 31749, 31751 (June 14, 1999).

corporation) are expected to provide a particular benefit to community banks.

The OCC received three comments on this proposed change, all of which supported its adoption. One commenter suggested that the text of the regulation be modified slightly to clarify that approval of the OCC under 12 U.S.C. 59 is required before a bank may acquire and hold its shares. The OCC agrees that this clarification is helpful and adopts it in the final rule by modifying the first sentence of proposed § 7.2020(a).

The examples listed as legitimate corporate purposes are non-exclusive, and the OCC included paragraph (c) in proposed § 7.2020 stating that purposes other than those enumerated in paragraph (b) of proposed § 7.2020 may satisfy the legitimate corporate purpose test. The OCC will continue its practice of evaluating other purposes for the acquisition and retention of a bank's shares on a case-by-case basis. In addition, the OCC notes that the word ''include'' in paragraph (b) of proposed § 7.2020 is not exhaustive and therefore believes that paragraph (c) is redundant. In the final rule, the OCC removes paragraph (c) from § 7.2020 as proposed and renumbers paragraph (d) of proposed § 7.2020 as § 7.2020(c). The OCC also makes a technical change substituting the word ''and'' for ''or'' in paragraph (b) of proposed § 7.2020.

The OCC adopts § 7.2020 as proposed, but with the modifications discussed.

Reverse Stock Splits (New § 7.2023)

The OCC proposed adding new § 7.2023 codifying the OCC's interpretation that a national bank may engage in a reverse stock split, as long as the bank provides adequate protection for dissenting shareholders' rights and the transaction serves a legitimate corporate purpose.[6] A ''reverse stock split'' is a restructuring of ownership interests in which a national bank reduces the number of its outstanding shares of stock by, for instance, replacing outstanding shares with fewer shares of a new issuance and paying cash to the minority shareholders for their fractional interests. This codification clarifies the flexibility national banks have to restructure their ownership interests, and benefits particularly community banks that desire, for instance, to restructure in order to qualify as a Subchapter S corporation.

Three commenters addressed the proposed change. All supported adoption in its entirety.

In the final rule, the OCC is making a technical change substituting the word ''and'' for ''or'' in § 7.2023(b) as proposed. The OCC adopts § 7.2023 as proposed, but with the modification discussed.

The examples listed in § 7.2023(b) as legitimate corporate purposes are non-exclusive, and the OCC will continue its practice of evaluating other purposes for reverse stock splits on a case-by-case basis.

Visitorial Powers (§ 7.4000)

The OCC proposed to revise § 7.4000, ''Books and records of national banks,'' to clarify the extent of the OCC's visitorial powers under 12 U.S.C. 484 and other federal statutes. As proposed, § 7.4000 codified the definition of visitorial powers and illustrated what visitorial powers include by providing a non-exclusive list of these powers. These powers include: (a) examination of a bank; (b) inspection of a bank's books and records[7]; (c) regulation and supervision of activities authorized or permitted under federal banking law; and (d) enforcing compliance with any applicable federal or state laws concerning those activities. The proposal also reorganized § 7.4000 by grouping together, in proposed paragraph (b), the exceptions noted in several different places in the current rule that are explicitly provided by federal law to the OCC's exclusive visitorial powers.

Eight commenters addressed this proposed change. The commenters were evenly split between those favoring adoption of the change and those opposed. Of those favoring adoption of the proposed change, two supported its adoption without any changes to the proposal, while two others suggested edits to the proposed text to elaborate on the extent of the visitorial powers listed in proposed § 7.4000(a)(2) and the general exceptions to those powers listed in proposed § 7.4000(b). Those opposing the proposed change maintained that 12 U.S.C. 484 does not preclude a role for the states, particularly in the area of consumer protection.[8]

The OCC agrees that Congress did not intend to preclude any role for the states by enacting 12 U.S.C. 484. As noted in the preamble to the proposal,[9] there are instances where federal statutory authority provides for a state agency to inspect a national bank's books and records (as is the case, for instance, with state escheat laws). The OCC does not object to state insurance regulators inspecting the records of national banks related to their insurance activities that are regulated under applicable state law, and the pending Gramm-Leach-Bliley Act would clarify that authority.[10]

However, Congress clearly intended for the role of states to be defined by those instances authorized by federal law. *See* 12 U.S.C. 484(a). Except where so authorized, the exclusive visitorial authority with respect to national banks has been vested in the OCC. *Id. See also* 12 U.S.C. 1813(q)(1); 1818(b) *et seq.; Guthrie* v. *Harkness,* 199 U.S. 148, 159 (1905); and *National State Bank, Elizabeth, N.J.* v. *Long,* 630 F.2d 981, 988–89 (3d Cir. 1980).

Congress recently reaffirmed the exclusive visitorial authority of the OCC in the context of interstate branching. *See* the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Interstate Act),[11] which amended 12 U.S.C. 36, among other statutes, to permit interstate branching. In the Interstate Act, Congress provided that

[6] Interpretive Letter No. 786 (June 9, 1997), *reprinted in* [1997 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–213. This conclusion is consistent with the recent court decision, *NoDak Bancorp.* v. *Clarke,* 998 F.2d 1416 (8th Cir. 1993), in which the court upheld the OCC's approval of a cash-out merger where the OCC found that there was a valid corporate purpose for the transaction and that minority shareholders were entitled to dissenters' rights. An earlier decision reversed an OCC approval of a reverse stock split. *See Bloomington Nat'l Bank* v. *Telfer,* 916 F.2d 1305 (7th Cir. 1990). However, that case is distinguishable on the grounds that the court reached its decision after concluding that the transaction had no legitimate business purpose and failed to provide for dissenters' rights. The court expressly declined to answer whether 12 U.S.C. 83 (the statute at issue in the case) prohibits all reverse stock split transactions, noting that its opinion was limited to the facts of the case. *Id.* at 1308 n.4, 1309. *See also Lewis* v. *Clark,* 911 F.2d 1558 (11th Cir. 1990) (concluding that minority shareholders in a merger could not be required to accept cash rather than stock in the new bank).

[7] The rule recognizes that bank-created records may be obtained through normal judicial processes. However, ''non-public OCC information,'' as defined in 12 CFR § 4.32(b), held by a bank may be obtained only by following the procedures set forth in 12 CFR part 4, subpart C. This final rule revises the last sentence of § 7.4000(a) by adding a parenthetical statement that non-public OCC information in the possession of a bank, such as the bank's examination report and supervisory correspondence, may be obtained by complying with the procedures set forth in 12 CFR part 4, subpart C.

[8] Three commenters supported this position by suggesting that the proposed interpretation is inconsistent with the holding of the federal district court in *Bank One, Utah* v. *Guttau,* No. 4–98–CV–10247 (D. Iowa July 24, 1998), that a state ATM law is not preempted by the National Bank Act. However, the Court of Appeals for the Eighth Circuit subsequently reversed the district court's decision and upheld the position of the bank and the OCC in that case. *Bank One, Utah* v. *Guttau,* No. 98–3166, slip op. 8–9, 10 (8th Cir. Sept. 2, 1999) (pet. for rehearing en banc pending) (Eighth Circuit's opinion hereinafter cited as *Guttau*).

[9] 64 FR 31749, 31751 n.9 (June 14, 1999).

[10] *See* H.R. 10, 106th Cong., 1st Sess. § 303 (functional regulation of insurance); S. 900, 106th Cong., 1st Sess. § 201 (same).

[11] Pub. L. 103–328, 108 Stat. 2338, enacted Sept. 29, 1994.

certain types of state laws apply to interstate branches of national banks. 12 U.S.C. 36(f)(1)(A). However, at the same time, Congress also expressly granted to the OCC the exclusive enforcement authority over interstate branches' compliance with those state laws. 12 U.S.C. 36(f)(1)(B).

As discussed in the preamble to the proposed rule,[12] courts have defined ''visitation'' expansively to include the inspection, regulation, or control of the operations of a bank to enforce the bank's observance of the law. *See First National Bank of Youngstown* v. *Hughes,* 6 F. 737, 740 (6th Cir. 1881), *appeal dismissed,* 106 U.S. 523 (1883); *Peoples Bank* v. *Williams,* 449 F. Supp. 254 (W.D. Va. 1978) (visitorial powers involve the exercise of the right of inspection, superintendence, direction, or regulation over a bank's affairs). This expansive definition is consistent with the intent of creating a national banking system that is subject to cohesive, uniform supervision by the primary regulator of national banks.

One commenter contended that, because the federal Electronic Funds Transfer Act (15 U.S.C. 1693–1693r) (EFTA) expressly states that it does not preempt state electronic funds transfer (EFT) laws that provide consumers greater protections than those provided by the federal EFTA, the OCC may not preempt consumer protections afforded by a state's EFT laws.[13] The OCC agrees that the *federal EFTA* does not preempt state EFT laws that afford greater consumer protections than does the federal EFTA. However, as the OCC concluded in a previous interpretation, a state EFT law that impairs or impedes a national bank's ability to engage in an activity that is authorized under another federal law could be preempted by that federal law.[14] The Eighth Circuit recently upheld this position in *Guttau.* In addressing the State of Iowa's contention that the federal EFTA permits the states to regulate the electronic transfer of funds, the court stated:

Despite the State's claims, this anti-preemption provision [in the federal EFTA] is specifically limited to the provisions of the federal EFTA, and nothing therein grants the states any additional authority to regulate national banks. State regulation of national banks is proper where ''doing so does not prevent or significantly interfere with the national bank's exercise of its powers.'' *Barnett Bank* [v. *Nelson*], 116 S. Ct. [1103, 1996] at 1109. Congress has made clear in the [National Bank Act] its intent that ATMs are not to be subject to state regulation, and thus the provisions of the Iowa EFTA that would prevent or significantly interfere with [the national bank's] placement and operation of its ATMs must be held to be preempted. Slip op. at 9.

Three commenters suggested that, because the question of whether states may enforce compliance with their consumer protection laws by national banks is the subject of pending litigation,[15] it is inappropriate for the OCC to promulgate a rule at this time related to the OCC's visitorial powers.[16] However, an agency is not precluded from issuing a rule that affects a provision that is the subject of ongoing litigation. *See Smiley* v. *Citibank,* 517 U.S. 735, 135 L. Ed. 2d 25, 116 S. Ct. 1730 (1996).

Based on the statutory authority and the caselaw discussed earlier, the OCC concludes that proposed § 7.4000 contains an accurate statement of the OCC's exclusive visitorial authority.

One commenter who favored adoption of the rule suggested that the OCC clarify that its exclusive visitorial powers extend to operating subsidiaries of national banks. As stated in 12 CFR 5.34(d)(3), each operating subsidiary is subject to examination and supervision by the OCC. This does not mean, however, that the OCC's jurisdiction necessarily is exclusive over a given subsidiary, and many subsidiaries have ''functional'' regulators, such NASD Regulation, Inc., the Securities and Exchange Commission, or a state insurance department.

Another commenter who favored adoption of the rule requested that the OCC add to the text of the final rule the statement that the list of visitorial powers in proposed § 7.4000(a)(2) is non-exclusive. This commenter pointed out that the preamble to the proposed rule stated that this list was illustrative of what visitorial powers include and was non-exclusive. The commenter urged the OCC to add this clarification to the regulation to avoid any ambiguity that might result from the statements in the proposal. The OCC notes that the word ''include'' is not exhaustive and therefore believes the recommended clarification is not necessary.

The same commenter also suggested another technical change relating to the rule's exceptions. The regulatory text in proposed § 7.4000(a) provided that state officials may not exercise visitorial powers with respect to national banks ''except in limited circumstances authorized by federal law.'' Similar language was used in proposed § 7.4000(b). The commenter suggested that the language in paragraph (a) of § 7.4000 refer the reader to paragraph (b), so that the language in paragraph (a) would read ''except as provided in paragraph (b) of this section.'' The commenter stated that this change would clarify the regulation by demonstrating that the two paragraphs are interrelated. The OCC agrees that this suggestion would add clarity to the regulation and adopts this recommendation in the final rule.

Finally, the OCC is making a technical change substituting the word ''and'' for ''or'' in paragraphs (a) and (b) of proposed § 7.4000.

The OCC adopts § 7.4000 as proposed, but with the modification suggested by the commenter, the change to the last sentence of paragraph (a) of proposed § 7.4000 concerning the procedure for obtaining non-public OCC information in accordance with 12 CFR part 4, subpart C, and the technical changes discussed.

Establishment and Operation of Remote Service Units (New § 7.4003)

The OCC proposed to add a new § 7.4003 codifying the OCC's interpretations that, because automated teller machines (ATMs) and other remote service units (RSUs)[17] are expressly excluded from the definition of ''branch'' in 12 U.S.C. 36(j), an ATM or RSU established by a national bank is not subject to any state-imposed

[12] 64 FR 31749, 31751 (June 14, 1999).

[13] This position also was advanced by two commenters in response to the proposed amendments to § 7.4003.

[14] *See* Interpretive Letter No. 789 (June 27, 1997), *reprinted in* [1997 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–216.

[15] *See First Union Nat'l Bank* v. *Burke,* 48 Fed. Supp. 2d 132 (D. Conn. 1999) (in which a federal district court upheld, in its Ruling on Motion for Preliminary Injunction, the OCC's right to exercise exclusive regulatory authority to enforce applicable state law against national banks when it enjoined a state banking authority's administrative enforcement proceeding against three national banks) (further proceedings stayed pending state court interpretation of state law); and *First Nat'l Bank of McCook* v. *Fulkerson,* No. 98–D–1024 (D. Colo. filed April 28, 1998) (action for declaratory judgment and injunction against state banking authority's administrative enforcement action against combination loan production office, deposit production office, and ATM on ground that the combination constitutes a branch). The commenters also cited the federal district court decision in the *Guttau* case. However, as previously noted, the Court of Appeals for the Eighth Circuit recently reversed the district court's holding, and found that federal law preempts state law restrictions on national bank ATMs. *Guttau,* slip op. at 8–9.

[16] This point also was made in comments concerning proposed §§ 7.4003, 7.4004, and 7.4005.

[17] An RSU is an automated facility, operated by a customer of a bank, that engages in one or more of the core banking functions of receiving deposits, paying checks, or lending money. An RSU includes ATMs, automated loan machines, and automated devices for receiving deposits, and may be equipped with a telephone or televideo device that allows contact with bank personnel.

geographic or operational restrictions or licensing laws.[18]

The OCC received seven comments on this proposed new rule. Commenters who favored adoption of the rule suggested that it was appropriate in light of the amendment to section 36(j). One commenter stated that the interpretation would add clarity and guidance to national banks in their deployment of ATMs and RSUs. None of the commenters who favored adoption of the rule suggested changes to the proposed language.

Three commenters opposed adoption of the rule. One maintained that, because 12 U.S.C. 93a[19] states that the authority it confers does not apply to 12 U.S.C. 36, the OCC is precluded from adopting the rule as proposed. However, the language to which the commenter referred is not a bar to the OCC's authority. Rather, it simply makes clear that, whatever authority the OCC has pursuant to other statutes to adopt regulations affecting national bank branching, 12 U.S.C. 93a does not expand that authority.[20] Moreover, even if 12 U.S.C. 93a were to preclude the OCC from issuing rules under section 36, the fact that section 36(j) expressly excludes ATMs and RSUs from the scope of section 36 leads to the conclusion that any rulemaking clarifying the status of ATMs and RSUs as not constituting branches is a rulemaking concerning a matter explicitly outside 12 U.S.C. 36.

Two commenters who opposed adoption of the rule concluded that the proposal was defective because it did not list each state law that is proposed to be preempted, as they maintain is required by section 114 of the Interstate Act (codified at 12 U.S.C. 43) (section 114).[21] Section 114 was designed to supply a public comment process in situations where preemption decisions would otherwise be announced without notice of the issue and an opportunity for public comment. Thus, section 114 does not apply to rulemakings, including this rulemaking, conducted pursuant to the notice-and-comment procedures prescribed by the Administrative Procedure Act (APA). 5 U.S.C. 553. Rules adopted pursuant to 5 U.S.C. 553 provide interested parties with the notice and opportunity to comment that section 114 is intended to ensure, making it unnecessary to subject them to duplicative publication requirements under section 114.

In light of the express exclusion of ATMs and RSUs from the definition of ''branch'' in 12 U.S.C. 36(j) and the comments received in response to proposed § 7.4003, the OCC adopts § 7.4003 as proposed.

Deposit Production Offices (New § 7.4004)

The OCC proposed to codify its interpretation,[22] in new § 7.4004, that a national bank deposit production office (DPO) is not a branch because it does not engage in any of the core banking functions that would cause it to be a branch under 12 U.S.C. 36. Paragraph (a) of proposed § 7.4004 states that a DPO must not receive deposits in order for it to be excluded from 12 U.S.C. 36(j)'s definition of ''branch,'' and that all deposit and withdrawal transactions by customers using a DPO must be performed by the customer, either in person at the main office or a branch office of the bank, or by mail, electronic transfer, or a similar method of transfer. Paragraph (b) of proposed § 7.4004 states that a national bank may use the services of, and compensate, persons not employed by the bank for its deposit production activities.

Three commenters addressed this proposed new section. Of the two commenters supporting adoption, one questioned the appropriateness of permitting, as paragraph (b) of proposed § 7.4004 does, a national bank to use persons not employed by the bank in its DPOs. The OCC notes that the provision in question merely permits a national bank the flexibility to use agents in its DPOs; a bank remains free to use its employees if it so chooses. This flexibility is the same as has been available for national banks using loan production offices (LPOs), which has not resulted in supervisory concerns.

The commenter opposed to proposed new § 7.4004 stated that it, along with proposed new § 7.4005, circumvents the intent of Congress as articulated in the Interstate Act to require national banks to adhere to state laws governing the establishment and operation of interstate branches. The OCC agrees that national banks' interstate branches are to comply with those state laws.[23] However, since a DPO does not perform any of the activities listed in 12 U.S.C. 36(j) that would cause it to be a ''branch,'' the provisions of those state laws do not apply.

The OCC adopts § 7.4004 as proposed.

Combination of LPO, DPO, and RSU (New § 7.4005)

The OCC proposed to add a new § 7.4005 to codify its interpretation that a facility that combines the non-branch functions of an LPO, DPO, and RSU is not a branch by virtue of that combination.[24]

Eight commenters addressed this proposed new section. Those favoring its adoption agreed with the OCC that the combination of facilities that individually are not branches would not create a branch. Those opposed maintained that the combined functions would create what is effectively a

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[18] *See, e.g.*, Interpretive Letter No. 838 (April 15, 1998), *reprinted in* [Current Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–293; Interpretive Letter No. 821 (Feb. 17, 1998), *reprinted in* [Current Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–271; Interpretive Letter No. 789 (June 27, 1997), *reprinted in* [1997 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–216; Interpretive Letter No. 772 (Mar. 6, 1997), *reprinted in* [1996–97 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–136. The OCC's interpretation recently was upheld by the Court of Appeals for the Eighth Circuit. *Bank One, Utah* v. *Guttau*, No 98–3166 (8th Cir. Sept. 2, 1999), *rev'g* No. 4–98–CV–10247 (D. Iowa July 24, 1998) (which had held that Iowa's ATM law is not preempted by the National Bank Act).

[19] 12 U.S.C. 93a states: ''Except to the extent that authority to issue such rules and regulations has been expressly and exclusively granted to another regulatory agency, the Comptroller of the Currency is authorized to prescribe rules and regulations to carry out the responsibilities of the office, except that the authority conferred by this section does not apply to section 36 of [Title 12] or to securities activities of National Banks under the Act commonly known as the ''Glass-Steagall Act'.''

[20] The legislative history of the statute that added 12 U.S.C. 93a to the federal banking law supports this reading. *See, e.g.*, House Conf. Rep. No. 96–842, 96th Cong., 2d Sess. 83 (1980), *reprinted in* 1980 U.S.C.C.A.N. 236, 313 (''[T]he rulemaking provision carries no authority to permit otherwise impermissible activities of national banks with specific reference to the provisions of the McFadden Act [12 U.S.C. 36].'').

[21] Section 114 requires the OCC, before issuing an opinion letter or interpretive rule that concludes that federal law preempts any state law regarding community reinvestment, consumer protection, fair lending, or the establishment of intrastate branches, to publish notice in the **Federal Register** of the preemption issue that the OCC is considering (including a description of each state law at issue), and give interested parties at least 30 days in which to comment. Section 114 by its terms does not require a listing of each state law that may be preempted.

[22] Interpretive Letter No. 691 (Sept. 25, 1995), *reprinted in* [1995–96 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–006 (deposit production offices are not branches as long as deposits are not accepted at the DPO but rather are mailed by the customer to the bank after filling out preliminary forms at the DPO); Interpretive Letter No. 638 (Jan. 6, 1994), *reprinted in* [1993–94 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,525 (a non-branch facility may perform deposit origination functions such as providing information on deposit products or handling application forms, as long as the activity stops short of actually receiving deposits).

[23] In the Interstate Act, Congress expressly authorized the OCC to enforce the provisions of state law to which a branch of a national bank is subject. 12 U.S.C. 36(f)(1)(B).

[24] The proposal cites Interpretive Letter No. 843 (Sept. 29, 1998), *reprinted in* [Current Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–298 (IL 843). The proposal also cites the position the OCC has taken as *amicus curiae* in litigation pending in the federal district court of Colorado in a case with substantially similar facts as those in IL 843. *See* OCC's Brief *Amicus Curiae* filed in *First Nat'l Bank of McCook* v. *Fulkerson*, Civil Action No. 98–D–1024 (brief filed Jan. 4, 1999).

branch, thereby enabling banks to circumvent branching laws. Two of these commenters also suggested that, by permitting banks to set up a combined LPO, DPO, and RSU in one facility without first applying to the OCC for approval pursuant to 12 CFR 5.30, the OCC would undermine the Community Reinvestment Act (12 U.S.C. 2901–2907) (CRA) by legitimizing narrower assessment areas.[25]

After carefully considering all the comments, the OCC remains of the view that the combination of facilities that separately are not branches does not transform the whole into something greater than its parts. ATMs and RSUs are expressly excluded from the definition of ''branch'' in 12 U.S.C. 36(j). Similarly, LPOs and DPOs do not engage in activities that would cause them to be branches under section 36(j). Combining these entities does not change this fact. As long as a national bank operates the facilities within the limits identified in the interpretations concerning LPOs (12 CFR 7.1004), RSUs (*id.* at § 7.4003), and DPOs (*id.* at § 7.4004), the combined activities still will not meet the definition of ''branch'' in section 36(j).[26]

The OCC recognizes that national banks that are predominantly non-branch based present unique supervisory and regulatory issues in several areas, including the CRA. The OCC and other banking agencies have addressed certain of these issues already. For instance, the agencies require a bank with a deposit-taking ATM to delineate an assessment area around the ATM to ensure that the bank is meeting the needs of the community from which it is receiving deposits. *See* 12 CFR 25.41(b) and (c).[27] Remaining issues affecting non-branch based institutions will require further analysis by the OCC and other banking agencies, but exceed the scope of this rulemaking.

The OCC adopts § 7.4005 as proposed.

Part 1—Investment Securities

The OCC proposed amending 12 CFR 1.3(e)(1) to clarify a provision that has led to some confusion. Current § 1.3(e)(1) sets forth the regulatory treatment of Type IV securities that are fully secured by Type I securities. The OCC proposed to eliminate the statement in § 1.3(e)(1) that a national bank may deal in Type IV securities that are fully secured by Type I securities, because that language has created issues about the treatment of Type V securities and about the relationship of the current provision with § 1.3(g) regarding securitization. As noted in the preamble to the proposed rule, the OCC, consistent with previous judicial rulings and OCC decisions,[28] proposed to clarify that it will continue to apply its long-standing regulatory treatment of asset-backed instruments that are fully secured by Type I securities and treat those instruments as Type I securities.

Two commenters addressed this proposed change. Both favored adoption without suggesting any changes.

The OCC adopts proposed § 1.3(e)(1) as proposed.

Part 5—Rules, Policies, and Procedures for Corporate Activities

The OCC proposed to conform references to the interagency Uniform Financial Institutions Rating System—commonly referred to as the CAMELS rating—to reflect the addition of a sixth component, ''sensitivity to market risk.'' [29] The OCC also proposed technical amendments to several sections in part 5 to conform them to provisions in the Comptroller's Corporate Manual that have been revised since part 5 last was amended and to amend an incorrect reference that currently appears in § 5.35(g)(3).

One commenter addressed these proposed changes. This commenter favored adoption of these changes to part 5.

The OCC adopts the proposed amendments without change.

Effective Date

Pursuant to the Administrative Procedure Act, 5 U.S.C. 553, this final rule has a 30-day delayed effective date. The Community Development and Regulatory Improvement Act of 1994 (CDRI Act) separately requires that the OCC's regulations take effect on the first day of the first calendar quarter following publication if the regulations impose additional reporting, disclosures, or other new requirements on national banks. *See* 12 U.S.C. 4802(b). The final rule imposes no new requirements on national banks. Therefore, the CDRI Act delayed effective date provision does not apply.

Regulatory Flexibility Act

It is hereby certified that this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required. This final rule is clarifying in nature and will reduce somewhat the regulatory burden on national banks.

Executive Order 12866

The OCC has determined that this final rule is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Act of 1995 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in the annual expenditure of $100 million or more in any one year by state, local, and tribal governments, in the aggregate, or by the private sector. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act requires an agency to identify and consider a reasonable number of alternatives before promulgating a rule.

The OCC has determined that the final rule does not include a federal mandate that will result in expenditures by state, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly,

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[25] As a general matter, financial institutions subject to the CRA are required to delineate one or more assessment areas within which an institution's primary regulator evaluates that institution's record of helping to meet the credit needs of its community. For the requirements applicable to national banks' delineation of assessment areas, see 12 CFR 25.41.

[26] *See, e.g.*, OCC Conditional Approval No. 313, Decision of the OCC on the Application by Canadian Imperial Bank of Commerce to Charter CIBC National Bank, Maitland, Fla., dated July 9, 1999. This conditional approval was published in the OCC's ''Interpretations and Actions'' for July, 1999.

[27] *See also* 64 FR 23618, 23647–48 (May 3, 1999) (in which the OCC and other banking agencies published a question and answer in which the agencies discuss how CRA ratings will be assigned in a situation in which a bank uses non-branch delivery systems to obtain deposits and deliver loans).

[28] *See Securities Indus. Ass'n* v. *Clarke*, 885 F.2d 1034 (2d Cir. 1989), *cert. denied*, 493 U.S. 1070 (1990) (national bank authority to securitize assets); Interpretive Letter No. 514 (May 5, 1990), *reprinted in* [1990–91 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,218 (bonds collateralized by Gov't Nat'l Mortgage Ass'n (GNMA), Fed. Nat'l Mortgage Ass'n (FNMA) and Fed. Home Loan Mortgage Ass'n (FHLMC) pass-through certificates); Interpretive Letter No. 362 (May 22, 1986), *reprinted in* [1985–87 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,532 (issuing, underwriting and dealing in evidences of indebtedness collateralized by GNMA, FNMA or FHLMC certificates); Interpretive Letter No. 378 (April 24, 1987), *reprinted in* [1988–89 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,602 (issuance and sale of collateralized mortgage obligations—bonds representing interests in pools of mortgages or mortgage-related obligations); Interpretive Letter No. 257 (April 12, 1983), *reprinted in* [1983–84 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,421 (underwriting and dealing in mortgage-backed pass-through certificates evidencing undivided interests in Fed. Housing Admin. insured mortgage pools purchased by the bank from GNMA); Investment Securities Letter No. 29 (Aug. 3, 1988), *reprinted in* [1988–89 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,899 (investment limits for asset-backed securities consisting of General Motors Acceptance Corp. receivables).

[29] *See* 61 FR 67021 (Dec. 19, 1996).

the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

One commenter asserted that § 7.4003 will result in an expenditure by the private sector of $100 million or more because, in this commenter's estimation, that provision will cause consumers to pay higher fees for using RSUs. The OCC notes that the relevant test under the statute is whether a regulation includes a federal mandate that may result in the threshold expenditure. The provision cited by the commenter as support for the conclusion that the rule will cause the private sector to spend $100 million or more is not a mandate. Instead, it simply codifies the conclusion that an RSU is not a branch, and is not subject to state geographic or operational restrictions or licensing laws. Accordingly, no further analysis of that provision under the Unfunded Mandates Act is required.

List of Subjects

12 CFR Part 1

Banks, banking, National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 5

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 7

Credit, Insurance, Investments, National banks, Reporting and recordkeeping requirements, Securities, Surety bonds.

Authority and Issuance

For the reasons set out in the preamble, chapter I of title 12 of the Code of Federal Regulations is amended as set forth below:

PART 1—INVESTMENT SECURITIES

1. The authority citation for part 1 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 24 (Seventh), and 93a.

2. In § 1.3, paragraph (e)(1) is revised to read as follows:

§ 1.3 Limitations on dealing in, underwriting, and purchase and sale of securities.

* * * * *

(e) *Type IV securities*—(1) *General.* A national bank may purchase and sell Type IV securities for its own account. Except as described in paragraph (e)(2) of this section, the amount of the Type IV securities that a bank may purchase and sell is not limited to a specified percentage of the bank's capital and surplus.

* * * * *

PART 5—RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

3. The authority citation for part 5 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 93a.

4. In § 5.3, paragraph (c) is revised and paragraph (g)(2) is amended by revising the term ''(CAMEL)'' to read ''(CAMELS)'', to read as follows:

§ 5.3 Definitions.

* * * * *

(c) *Appropriate district office means:*

(1) Bank Organization and Structure for all national bank subsidiaries of certain holding companies assigned to the Washington, D.C., licensing unit;

(2) The appropriate OCC district office for all national bank subsidiaries of certain holding companies assigned to a district office licensing unit;

(3) The OCC's district office where the national bank's supervisory office is located for all other banks; or

(4) The OCC's International Banking and Finance Department for federal branches and agencies of foreign banks.

* * * * *

§ 5.11 [Amended]

5. In § 5.11, paragraph (i)(1) is amended by revising the phrase ''representative of the OCC'' to read ''presiding officer''.

6. In § 5.33, paragraph (d)(2)(i) is revised to read as follows:

§ 5.33 Business combinations.

* * * * *

(d) * * *

(2) * * *

(i) A business combination between eligible banks, or between an eligible bank and an eligible depository institution, that are controlled by the same holding company or that will be controlled by the same holding company prior to the combination; or

* * * * *

§ 5.35 [Amended]

7. In § 5.35, paragraph (g)(3) is amended by revising the term ''paragraph (h)'' to read ''paragraph (i)''.

§ 5.37 [Amended]

8. In § 5.37, paragraphs (d)(1)(i) and (d)(3) are amended by revising the term ''district'' to read ''supervisory'', and paragraph (d)(3) is amended further by revising the term ''(CAMEL)'' to read ''(CAMELS)''.

§ 5.51 [Amended]

9. In § 5.51, paragraph (c)(6)(i) is amended by revising the term ''(CAMEL)'' to read ''(CAMELS)''.

§ 5.64 [Amended]

10. In § 5.64, paragraph (b) is amended by revising the term ''district'' to read ''supervisory''.

PART 7—BANK ACTIVITIES AND OPERATIONS

11. The authority citation for part 7 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.* and 93a.

12. The title of part 7 is revised to read as set forth above.

13. In § 7.1012, paragraphs (c)(2)(i) and (c)(2)(ii) are revised and paragraphs (c)(2)(iii), (c)(2)(iv), (c)(2)(v), and (c)(2)(vi) are added to read as follows:

§ 7.1012 Messenger service.

* * * * *

(c) * * *

(2) * * *

(i) A party other than the national bank owns or rents the messenger service and its facilities and employs the persons who provide the service;

(ii)(A) The messenger service retains the discretion to determine in its own business judgment which customers and geographic areas it will serve; or

(B) If the messenger service and the bank are under common ownership or control, the messenger service actually provides its services to the general public, including other depository institutions, and retains the discretion to determine in its own business judgment which customers and geographic areas it will serve;

(iii) The messenger service maintains ultimate responsibility for scheduling, movement, and routing;

(iv) The messenger service does not operate under the name of the bank, and the bank and the messenger service do not advertise, or otherwise represent, that the bank itself is providing the service, although the bank may advertise that its customers may use one or more third party messenger services to transact business with the bank;

(v) The messenger service assumes responsibility for the items during transit and for maintaining adequate insurance covering thefts, employee fidelity, and other in-transit losses; and

(vi) The messenger service acts as the agent for the customer when the items are in transit. The bank deems items intended for deposit to be deposited when credited to the customer's account at the bank's main office, one of its branches, or another permissible

facility, such as a back office facility that is not a branch. The bank deems items representing withdrawals to be paid when the items are given to the messenger service.

* * * * *

14. In § 7.1016, paragraphs (a) including the footnote, (b)(1)(iii)(C), (b)(1)(iv), and (b)(2)(ii) are revised to read as follows:

§ 7.1016 Independent undertakings to pay against documents.

(a) *General authority.* A national bank may issue and commit to issue letters of credit and other independent undertakings within the scope of the applicable laws or rules of practice recognized by law.[30] Under such letters of credit and other independent undertakings, the bank's obligation to honor depends upon the presentation of specified documents and not upon nondocumentary conditions or resolution of questions of fact or law at issue between the applicant and the beneficiary. A national bank may also confirm or otherwise undertake to honor or purchase specified documents upon their presentation under another person's independent undertaking within the scope of such laws or rules.

(b) * * *

(1) * * *

(iii) * * *

(C) Entitle the bank to cash collateral from the applicant on demand (with a right to accelerate the applicant's obligations, as appropriate); and

(iv) The bank either should be fully collateralized or have a post-honor right of reimbursement from the applicant or from another issuer of an independent undertaking. Alternatively, if the bank's undertaking is to purchase documents of title, securities, or other valuable documents, the bank should obtain a first priority right to realize on the documents if the bank is not otherwise to be reimbursed.

(2) * * *

(ii) In the event that the undertaking provides for automatic renewal, the terms for renewal should be consistent with the bank's ability to make any necessary credit assessments prior to renewal;

* * * * *

15. In § 7.1017, the introductory text is revised to read as follows:

§ 7.1017 National bank as guarantor or surety on indemnity bond.

A national bank may lend its credit, bind itself as a surety to indemnify another, or otherwise become a guarantor (including, pursuant to 12 CFR 28.4, guaranteeing the deposits and other liabilities of its Edge corporations and Agreement corporations and of its corporate instrumentalities in foreign countries), if:

* * * * *

16. In § 7.2005, paragraph (b)(4) is revised to read as follows:

§ 7.2005 Ownership of stock necessary to qualify as director.

* * * * *

(b) * * *

(4) *Other arrangements*—(i) *Shares held through retirement plans and similar arrangements.* A director may hold his or her qualifying interest through a profit-sharing plan, individual retirement account, retirement plan, or similar arrangement, if the director retains beneficial ownership and legal control over the shares.

(ii) *Shares held subject to buyback agreements.* A director may acquire and hold his or her qualifying interest pursuant to a stock repurchase or buyback agreement with a transferring shareholder under which the director purchases the qualifying shares subject to an agreement that the transferring shareholder will repurchase the shares when, for any reason, the director ceases to serve in that capacity. The agreement may give the transferring shareholder a right of first refusal to repurchase the qualifying shares if the director seeks to transfer ownership of the shares to a third person.

(iii) *Assignment of right to dividends or distributions.* A director may assign the right to receive all dividends or distributions on his or her qualifying shares to another, including a transferring shareholder, if the director retains beneficial ownership and legal control over the shares.

(iv) *Execution of proxy.* A director may execute a revocable or irrevocable proxy authorizing another, including a transferring shareholder, to vote his or her qualifying shares, provided the director retains beneficial ownership and legal control over the shares.

* * * * *

17. In § 7.2008, the last sentence of paragraph (b) is revised and a new paragraph (c) is added to read as follows:

§ 7.2008 Oath of directors.

* * * * *

(b) *Execution of the oath.* * * * Appropriate sample oaths are located in the ''Comptroller's Corporate Manual.''

(c) *Filing and recordkeeping.* A national bank must file the original executed oaths of directors with the OCC and retain a copy in the bank's records in accordance with the Comptroller's Corporate Manual filing and recordkeeping instructions for executed oaths of directors.

18. Section 7.2020 is revised to read as follows:

§ 7.2020 Acquisition and holding of shares as treasury stock.

(a) *Acquisition of outstanding shares.* Pursuant to 12 U.S.C. 59, including the requirements for prior approval by the bank's shareholders and the OCC imposed by that statute, a national bank may acquire its outstanding shares and hold them as treasury stock, if the acquisition and retention of the shares is, and continues to be, for a legitimate corporate purpose.

(b) *Legitimate corporate purpose.* Examples of legitimate corporate purposes include the acquisition and holding of treasury stock to:

(1) Have shares available for use in connection with employee stock option, bonus, purchase, or similar plans;

(2) Sell to a director for the purpose of acquiring qualifying shares;

(3) Purchase a director's qualifying shares upon the cessation of the director's service in that capacity if there is no ready market for the shares;

(4) Reduce the number of shareholders in order to qualify as a Subchapter S corporation; and

(5) Reduce costs associated with shareholder communications and meetings.

(c) *Prohibition.* It is not a legitimate corporate purpose to acquire or hold treasury stock on speculation about changes in its value.

19. A new § 7.2023 is added to subpart B to read as follows:

§ 7.2023 Reverse stock splits.

(a) *Authority to engage in reverse stock splits.* A national bank may engage in a reverse stock split if the transaction serves a legitimate corporate purpose and provides adequate dissenting shareholders' rights.

[30] Examples of such laws or rules of practice include: The applicable version of Article 5 of the Uniform Commercial Code (UCC) (1962, as amended 1990) or revised Article 5 of the UCC (as amended 1995) (available from West Publishing Co., 1/800/328–4880); the Uniform Customs and Practice for Documentary Credits (International Chamber of Commerce (ICC) Publication No. 500) (available from ICC Publishing, Inc., 212/206–1150; http://www.iccwbo.org); the International Standby Practices (ISP98) (ICC Publication No. 590) (available from the Institute of International Banking Law & Practice, 301/869–9840; http://www.iiblp.org); the United Nations Convention on Independent Guarantees and Stand-by Letters of Credit (adopted by the U.N. General Assembly in 1995 and signed by the U.S. in 1997) (available from the U.N. Commission on International Trade Law, 212/963–5353); and the Uniform Rules for Bank-to-Bank Reimbursements Under Documentary Credits (ICC Publication No. 525) (available from ICC Publishing, Inc., 212/206–1150; http://www.iccwbo.org); as any of the foregoing may be amended from time to time.

(b) *Legitimate corporate purpose.* Examples of legitimate corporate purposes include a reverse stock split to:

(1) Reduce the number of shareholders in order to qualify as a Subchapter S corporation; and

(2) Reduce costs associated with shareholder communications and meetings.

20. In § 7.4000, the section heading and paragraphs (a) and (b) are revised to read as follows:

§ 7.4000 Visitorial powers.

(a) *General rule.* (1) Only the OCC or an authorized representative of the OCC may exercise visitorial powers with respect to national banks, except as provided in paragraph (b) of this section. State officials may not exercise visitorial powers with respect to national banks, such as conducting examinations, inspecting or requiring the production of books or records of national banks, or prosecuting enforcement actions, except in limited circumstances authorized by federal law. However, production of a bank's records (other than non-public OCC information under 12 CFR part 4, subpart C) may be required under normal judicial procedures.

(2) For purposes of this section, visitorial powers include:

(i) Examination of a bank;

(ii) Inspection of a bank's books and records;

(iii) Regulation and supervision of activities authorized or permitted pursuant to federal banking law; and

(iv) Enforcing compliance with any applicable federal or state laws concerning those activities.

(b) *Exceptions to the general rule.* Federal law expressly provides special authority for state or other federal officials to:

(1) Inspect the list of shareholders, provided the official is authorized to assess taxes under state authority (12 U.S.C. 62; this section also authorizes inspection of the shareholder list by shareholders and creditors of a national bank);

(2) Review, at reasonable times and upon reasonable notice to a bank, the bank's records solely to ensure compliance with applicable state unclaimed property or escheat laws upon reasonable cause to believe that the bank has failed to comply with those laws (12 U.S.C. 484(b));

(3) Verify payroll records for unemployment compensation purposes (26 U.S.C. 3305(c));

(4) Ascertain the correctness of federal tax returns (26 U.S.C. 7602); and

(5) Enforce the Fair Labor Standards Act (29 U.S.C. 211).

* * * * *

21. A new § 7.4003 is added to read as follows:

§ 7.4003 Establishment and operation of a remote service unit by a national bank.

A remote service unit (RSU) is an automated facility, operated by a customer of a bank, that conducts banking functions, such as receiving deposits, paying withdrawals, or lending money. A national bank may establish and operate an RSU pursuant to 12 U.S.C. 24(Seventh). An RSU includes an automated teller machine, automated loan machine, and automated device for receiving deposits. An RSU may be equipped with a telephone or televideo device that allows contact with bank personnel. An RSU is not a ''branch'' within the meaning of 12 U.S.C. 36(j), and is not subject to state geographic or operational restrictions or licensing laws.

22. A new § 7.4004 is added to read as follows:

§ 7.4004 Establishment and operation of a deposit production office by a national bank.

(a) *General rule.* A national bank or its operating subsidiary may engage in deposit production activities at a site other than the main office or a branch of the bank. A deposit production office (DPO) may solicit deposits, provide information about deposit products, and assist persons in completing application forms and related documents to open a deposit account. A DPO is not a branch within the meaning of 12 U.S.C. 36(j) and 12 CFR 5.30(d)(1) so long as it does not receive deposits, pay withdrawals, or make loans. All deposit and withdrawal transactions of a bank customer using a DPO must be performed by the customer, either in person at the main office or a branch office of the bank, or by mail, electronic transfer, or a similar method of transfer.

(b) *Services of other persons.* A national bank may use the services of, and compensate, persons not employed by the bank in its deposit production activities.

23. A new § 7.4005 is added to read as follows:

§ 7.4005 Combination of loan production office, deposit production office, and remote service unit.

A location at which a national bank operates a loan production office (LPO), a deposit production office (DPO), and a remote service unit (RSU) is not a ''branch'' within the meaning of 12 U.S.C. 36(j) by virtue of that combination. Since an LPO, DPO, or RSU is not, individually, a branch under 12 U.S.C. 36(j), any combination of these facilities at one location does not create a branch.

Dated: October 25, 1999.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 99–28819 Filed 11–3–99; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–51–AD; Amendment 39–11400; AD 99–23–04]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Model 222, 222B, and 222U Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Bell Helicopter Textron Canada (BHTC) Model 222, 222B, and 222U helicopters. This action requires verifying the torque on each vertical fin attachment bolt (bolt); inspecting the vertical fin and tailboom fittings for cracks, elongation of bolt holes, distortion and corrosion; and re-verifying the torque on the bolts after inspecting the fittings. This amendment is prompted by a report of a loose vertical fin, which was discovered during a post-flight inspection. The actions specified in this AD are intended to prevent loss of torque of the bolts, which could lead to fracture of the bolts, separation of the vertical fin from the helicopter, and subsequent loss of control of the helicopter.

DATES: Effective November 19, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 19, 1999.

Comments for inclusion in the Rules Docket must be received on or before January 3, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–51–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The service information referenced in this AD may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 463–3036, fax (514) 433–0272. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aerospace Engineer, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5122, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: Transport Canada, which is the airworthiness authority for Canada, has notified the FAA that an unsafe condition may exist on BHTC Model 222, 222B, and 222U helicopters. Transport Canada advises that, in one instance, loss of torque on the bolts resulted in fracture of four of the eight bolts and a loose vertical fin on a Model 230 helicopter, which is of similar design to the Model 222 series helicopters.

BHTC has issued Bell Helicopter Textron Alert Service Bulletin (ASB) No. 222–98–82, Revision A, and ASB No. 222U–98–53, Revision A, both dated June 9, 1998, which specify a bolt torque check within 25 hours after receipt of the ASB; removal, inspection and modification, if necessary, and installation of the vertical fin at the next scheduled 150-hour inspection after receipt of the ASB; and verifying the bolt torque within 5 to 10 hours after each fin removal and installation, and at every 150 hours of operation. BHTC also issued Bell Helicopter Textron Technical Bulletin (TB) No. 222–98–156 (applicable to Model 222 and 222B helicopters) and TB No. 222U–98–84 (applicable to Model 222U helicopters), both dated June 17, 1998, which specify a modification of the vertical fin attachment fitting and tailboom fitting to permit installation of increased diameter fin attachment hardware. Transport Canada classified these service bulletins as mandatory and issued AD CF–98–21, dated August 7, 1998, in order to assure the continued airworthiness of these helicopters in Canada.

These helicopter models are manufactured in Canada and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other BHTC Model 222, 222B, and 222U helicopters of the same type design registered in the United States, this AD is being issued to prevent loss of torque of the bolts, which could lead to fracture of the bolts, separation of the vertical fin from the helicopter, and subsequent loss of control of the helicopter. This AD requires verifying the bolt torque; inspecting the vertical fin and tailboom fittings for cracks, elongation of bolt holes, distortion and corrosion; and re-verifying the torque on the bolts after inspecting the fittings. The bolt torque must also be verified at specified intervals after accomplishing the initial inspections. The actions are required to be accomplished in accordance with the service bulletins described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity of the helicopter. Therefore, verifying the torque is required within 25 hours time-in-service, and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Cost Impact

The FAA estimates that 78 helicopters will be affected by this AD, that it will take approximately 8 work hours to accomplish the torque verifications and vertical fin inspection, 1 work hour to accomplish repetitive torque verification and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators for the initial inspection and 1 recurring inspection is estimated to be $42,120, assuming no helicopters require modification due to elongated bolt holes.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–SW–51–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final

regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 99–23–04 Bell Helicopter Textron Canada: Amendment 39–11400. Docket No. 98–SW–51–AD.

Applicability: Model 222 helicopters, serial numbers (S/N) 47006 through 47089; Model 222B helicopters, S/N 47131 through 47156, and Model 222U helicopters, S/N 47501 through 47574, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of torque of the vertical fin attachment bolts (bolts), which could lead to fracture of the bolts, separation of the vertical fin from the helicopter, and subsequent loss of control of the helicopter accomplish the following:

(a) Within 25 hours time-in-service (TIS), verify the torque on the bolts in accordance with Part I of the Accomplishment Instructions in Bell Helicopter Textron Alert Service Bulletin (ASB) No. 222–98–82, Revision A (applicable to Model 222 and Model 222B helicopters), or ASB No. 222U–98–53, Revision A (applicable to Model 222U helicopters), both dated June 9, 1998.

(b) On or before the next 150 hour TIS inspection, inspect the vertical fin fitting and tailboom fitting for cracks, elongated bolt holes, distortion and corrosion in accordance with Part II of the Accomplishment Instructions in ASB No. 222–98–82, Revision A (applicable to Model 222 and Model 222B helicopters), or ASB No. 222U–98–53, Revision A, (applicable to Model 222U helicopters), both dated June 9, 1998. If bolt holes are elongated, modify the vertical fin fitting and tailboom fitting in accordance with the Accomplishment Instructions in Bell Helicopter Textron Technical Bulletin (TB) No. 222–98–156 (applicable to Model 222 and 222B helicopters), or TB No. 222U–98–84 (applicable to Model 222U helicopters), both dated June 17, 1998.

(c) After the inspection required by paragraph (b) and after at least 5 hours TIS but within 10 hours TIS, re-verify the torque on the bolts in accordance with Part III, Special Inspections, Step 1 of the Accomplishment Instructions in ASB No. 222–98–82, Revision A (applicable to Model 222 and Model 222B helicopters), or ASB No. 222U–98–53, Revision A, (applicable to Model 222U helicopters), both dated June 9, 1998.

(d) Thereafter, at intervals not to exceed 150 hours TIS, verify the torque of the vertical fin attachment bolts in accordance with the 150 flight hour, Part III, Scheduled Inspections of the Accomplishment Instructions in the ASB No. 222–98–82, Revision A (applicable to Model 222 and Model 222B helicopters), or ASB No. 222U–98–53, Revision A, (applicable to Model 222U helicopters), both dated June 9, 1998.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(g) The inspections shall be done in accordance with Bell Helicopter Textron Alert Service Bulletin No. 222–98–82, Revision A (applicable to Model 222 and Model 222B helicopters), or Bell Helicopter Textron Alert Service Bulletin 222U–98–53, Revision A (applicable to Model 222U helicopters), both dated June 9, 1998; and Bell Helicopter Textron Technical Bulletin No. 222–98–156 (applicable to Model 222 and 222B helicopters), or Bell Helicopter Textron Technical Bulletin No. 222U–98–84 (applicable to Model 222U helicopters), both dated June 17, 1998. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 463–3036, fax (514) 433–0272. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on November 19, 1999.

Note 3: The subject of this AD is addressed in Transport Canada (Canada) AD CF–98–21, dated August 7, 1998.

Issued in Fort Worth, Texas, on October 26, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–28653 Filed 11–3–99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–50–AD; Amendment 39–11399; AD 99–23–03]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Model 430 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Bell Helicopter Textron Canada (BHTC) Model 430 helicopters. This action requires verifying the torque on each vertical fin attachment bolt (bolt); modifying the vertical fin and tailboom and replacing the attachment hardware; and re-verifying the torque on the bolts after inspecting the fittings. This amendment is prompted by a report of a loose vertical fin, which was discovered during a post-flight inspection. The actions specified in this AD are intended to prevent loss of torque of the bolts, which could lead to fracture of the bolts, separation of the vertical fin from the helicopter, and subsequent loss of control of the helicopter.

DATES: Effective November 19, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 19, 1999.

Comments for inclusion in the Rules Docket must be received on or before January 3, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–50–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The service information referenced in this AD may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 463–3036, fax (514) 433–0272. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aerospace Engineer, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5122, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: Transport Canada, which is the airworthiness authority for Canada, has notified the FAA that an unsafe condition may exist on BHTC Model 430 helicopters. Transport Canada advises that, in one instance, loss of torque on the bolts resulted in fracture of four of the eight bolts and a loose vertical fin on a Model 230 helicopter which is of similar design to the Model 430 series helicopters.

BHTC has issued Bell Helicopter Textron Alert Service Bulletin No. 430–98–5, dated June 12, 1998 (ASB), which specifies a bolt torque check within 25 hours after receipt of the ASB; removal, inspection, and installation of the tailboom and vertical fin modification with attaching hardware replacement at the next scheduled 150-hour inspection after receipt of the ASB; and verifying the bolt torque within 5 to 10 hours after each fin removal and installation, and at every 150 hours of operation. Transport Canada classified this ASB as mandatory and issued AD CF–98–23, dated August 7, 1998, in order to assure the continued airworthiness of these helicopters in Canada.

This helicopter model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, Transport Canada has kept the FAA informed of the situation described above. The FAA has examined the findings of Transport Canada, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other BHTC Model 430 helicopters of the same type design registered in the United States, this AD is being issued to prevent loss of torque of the bolts, which could lead to fracture of the bolts, separation of the vertical fin from the helicopter, and subsequent loss of control of the helicopter. This AD requires verifying the bolt torque within 25 hours time-in-service (TIS); modifying the vertical fin and tailboom fittings and replacing the attachment hardware at or before the next 150-hour TIS inspection; and re-verifying the torque on the bolts within 10 hours TIS after inspecting the vertical fin. The actions are required to be accomplished in accordance with the bulletin described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity of the helicopter. Therefore, verifying the torque is required within 25 hours time-in-service (TIS), and this AD must be issued immediately.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Cost Impact

The FAA estimates that 14 helicopters will be affected by this AD, that it will take approximately 3 work hours to accomplish the initial torque verifications and vertical fin inspection, 12 work hours to modify the vertical fin and install the attachment hardware, 1 work hour to accomplish the repetitive torque verification after the modification, and 1 work hour to accomplish each 150-hour inspection, and that the average labor rate is $60 per work hour. Required parts will cost approximately $1,692 if the CA430–98–5–2 kit is used or $2,399 if the CA430–98–05–1 kit is used. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $47,866, assuming only the CA430–98–05–1 kit is installed and one repetitive 150-hour inspection on each helicopter.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–SW–50–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory

Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

AD 99–23–03 Bell Helicopter Textron Canada: Amendment 39–11399. Docket No. 98–SW–50–AD.

Applicability: Model 430 helicopters, serial numbers 49001 through 49036, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of torque of the vertical fin attachment bolts (bolts), which could lead to fracture of the bolts, separation of the vertical fin from the helicopter, and subsequent loss of control of the helicopter accomplish the following:

(a) Within 25 hours time-in-service (TIS), verify the torque on the bolts in accordance with Part I of the Accomplishment Instructions in Bell Helicopter Textron Alert Service Bulletin No. 430–98–5, dated June 12, 1998 (ASB).

(b) On or before the next scheduled 150-hour TIS inspection, modify the tailboom and vertical fin and replace the attachment hardware in accordance with Part II of the Accomplishment Instructions in the ASB.

(c) After accomplishing the modification required by paragraph (b) and after at least 5 hours TIS but within 10 hours TIS, verify the torque on the bolts in accordance with Part III of the Accomplishment Instructions in the ASB.

(d) Thereafter, at intervals not to exceed 150 hours TIS, verify the torque of the vertical fin attachment bolts in accordance with the 150 flight hour scheduled inspections, Part III, of the Accomplishment Instructions in the ASB.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Standards Staff, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Rotorcraft Standards Staff.

(f) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be accomplished.

(g) The inspections shall be done in accordance with Bell Helicopter Textron Canada Alert Service Bulletin No. 430–98–5, dated June 12, 1998.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 463–3036, fax (514) 433–0272. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on November 19, 1999.

Note 3: The subject of this AD is addressed in Transport Canada (Canada) AD CF–98–23, dated August 7, 1998.

Issued in Fort Worth, Texas, on October 26, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–28652 Filed 11–3–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 91F–0431]

Indirect Food Additives: Resinous and Polymeric Coatings

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of 2,2'-[(1-methylethylidene)bis[4,1-phenyleneoxy[1-(butoxymethyl)-2,1-ethanediyl]oxymethylene]]bisoxirane as a component of epoxy coatings intended for use in contact with bulk dry foods. This action is in response to a petition filed by Ciba-Geigy Corp.

DATES: This regulation is effective November 4, 1999; written objections and requests for a hearing by December 6, 1999.

ADDRESS: Submit written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Vivian Gilliam, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3094.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice published in the **Federal Register** of December 5, 1991 (56 FR 63737), FDA announced that a food additive petition (FAP 1B4278) had been filed by Ciba–Geigy Corp., Seven Skyline Dr., Hawthorne, NY 10532–2188. The petition proposed to amend the food additive regulations in § 175.300 *Resinous and polymeric coatings* (21 CFR 175.300) to provide for the safe use of 2,2'-[(1-methylethylidene)bis[4,1-phenyleneoxy[1-(butoxymethyl)-2,1-ethanediyl]oxymethylene]]bisoxirane as a component of resinous and polymeric coatings intended for use in contact with dry bulk foods.

In FDA's evaluation of the safety of this additive, the agency reviewed the safety of the additive itself and the chemical impurities that may be present in the additive resulting from its manufacturing process. Although the additive itself has not been shown to cause cancer, it has been found to

contain minute amounts of epichlorohydrin, a carcinogenic impurity resulting from the manufacture of the additive. Residual amounts of impurities are commonly found as constituents of chemical products, including food additives.

II. Determination of Safety

Under the general safety standard of the Federal Food, Drug, and Cosmetic Act (the act) 21 U.S.C. 348(c)(3)(A), a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. FDA's food additive regulations (21 CFR 170.3(i)) define safe as ''a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use.''

The food additives anticancer, or Delaney, clause of the act (21 U.S.C. 348(c)(3)(A)) provides that no food additive shall be deemed safe if it is found to induce cancer when ingested by man or animal. Importantly, however, the Delaney clause applies to the additive itself and not to the impurities in the additive. That is, where an additive itself has not been shown to cause cancer, but contains a carcinogenic impurity, the additive is properly evaluated under the general safety standard using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the intended use of the additive. (*Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984)).

III. Safety of the Petitioned Use of the Additive

FDA estimates that the petitioned use of the additive, 2,2'-[(1-methylethylidene)bis[4,1-phenyleneoxy[1-(butoxymethyl)-2,1-ethanediyl]oxymethylene]]bisoxirane, will result in exposure no greater than 4.4 parts per (pp) trillion of the additive in the daily diet (3 kilograms (kg)) or an estimated daily intake (EDI) of 13 nanograms per person per day (ng/p/d)(Ref. 1).

FDA does not ordinarily consider chronic toxicological studies to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Ref. 2), and the agency has not required such testing here. However, the agency has reviewed the available toxicological data on the additive and concludes that the estimated small dietary exposure resulting from the petitioned use of this additive is safe.

FDA has evaluated the safety of this additive under the general safety standard, considering all available data and using risk assessment procedures to estimate the upper-bound limit of lifetime human risk presented by epichlorohydrin, a carcinogenic chemical that may be present as an impurity in the additive. The risk evaluation of epichlorohydrin has two aspects: (1) Assessment of the exposure to the impurity from the petitioned use of the additive and (2) extrapolation of the risk observed in the animal bioassay to the conditions of exposure to humans.

A. Epichlorohydrin

FDA has estimated the exposure to epichlorohydrin from the petitioned use of the additive as a component of epoxy coatings to be no more than 0.013 pp trillion of the daily diet (3 kg), or 39 picograms/person/day (pg/p/d) (Ref.3). The agency used data from a carcinogenesis bioassay conducted on rats fed epichlorohydrin via their drinking water (Ref. 4), to estimate the upper-bound limit of lifetime human risk from exposure to this chemical resulting from the petitioned use of the additive. The authors reported that the test material caused significantly increased incidence of stomach papillomas and carcinomas in rats.

Based on the agency's estimate that exposure to epichlorohydrin will not exceed 39 pg/p/d, FDA estimates that the upper-bound limit of lifetime human risk from the petitioned use of the subject additive is 1.8 X 10–12, or 1.8 in one trillion (Ref. 5). Because of the numerous conservative assumptions used in calculating the exposure estimate, the actual lifetime-averaged individual exposure to epichlorohydrin is likely to be substantially less than the estimated exposure, and therefore, the probable lifetime human risk would be less than the upper-bound limit of lifetime human risk. Thus, the agency concludes that there is reasonable certainty that no harm from exposure to epichlorohydrin would result from the petitioned use of the additive.

B. Need for Specifications

The agency has also considered whether specifications are necessary to control the amount of epichlorohydrin present as an impurity in the food additive. The agency finds that specifications are not necessary for the following reasons: (1) Because the low levels at which epichlorohydrin may be expected to remain as an impurity following production of the additive, the agency would not expect this impurity to become a component of food at other than extremely low levels; and (2) the upper-bound limit of lifetime human risk from exposure to epichlorohydrin is very low, 1.8 in a trillion.

IV. Conclusion

FDA has evaluated data in the petition and other relevant material. The agency concludes that: (1) The proposed use of the additive is safe, (2) the additive will achieve its intended technical effect, and (3) the regulations in § 175.300 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

V. Environmental Impact

The agency has determined under 21 CFR 25.32(j) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment (EA) nor an environmental impact statement is required.

VI. Paperwork Reduction Act of 1995

This final rule contains no collections of information. Therefore clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VII. Objections

Any person who will be adversely affected by this regulation may at any time on or before December 6, 1999, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event

that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

VIII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum from the Division of Product Manufacture and Use, Chemistry Review Team (HFS–246), to the Division of Petition Control (HFS–215), entitled ''FAP 1B4278 (MATS #583, M2.2.1): Ciba–Geigy Corp., Request from DHEE dated 12–16–97 for a revised exposure estimate to Araldite XU GY 376, an epoxy resin for use as a repeat-use coating component that will contact bulk grains and dry foods,'' dated February 27, 1998.

2. Kokoski, C. J., ''Regulatory Food Additive Toxicology,'' in *Chemical Safety Regulation and Compliance*, edited by F. Homburger and J. K. Marquis, published by S. Karger, New York, NY, pp. 24 to 33, 1985.

3. Memorandum from the Chemistry Review Branch (HFS–247) to the Indirect Additives Branch (HFS–216), entitled ''FAP–1B4278 (MATS #583) Ciba-Geigy Corp., Submission dated 10–23–92. Araldite XU GY 376 as a component of food-contact coatings,'' dated May 12, 1993.

4. Konishi, Y. et al.,''Forestomach Tumors Induced by Orally Administered Epichlorohydrin in Male Wistar Rats,'' *Gann*, 71: pp. 922 to 923, 1980.

5. Memorandum from the Indirect Additives Branch (HFS–216) to the Executive Secretary, Quantitative Risk Assessment Committee (QRAC) (HFS–308) entitled ''Estimation of the upper bound lifetime risk from epichlorohydrin in 2,2'-[(1-methylethylidene)bis[4,1-phenyleneoxy[1-(butoxymethyl)-2,1-ethanediyl]oxymethylene]] bisoxirane, the subject of FAP 1B4278 (Ciba-Geigy Corp.),'' dated November 22, 1993.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVES AND COMPONENTS OF COATINGS

1. The authority citation for 21 CFR part 175 continues to read as follows:

Authority: Secs. 21 U.S.C. 321, 342, 348, 379e.

2. Section 175.300 is amended in paragraph (b)(3)(viii)(*a*) by alphabetically adding an entry to read as follows:

§ 175.300 Resinous and polymeric coatings.

* * * * *

(b) * * *

(3) * * *

(viii) * * *

(*a*) * * *

* * * * *

2,2'-[(1-methylethylidene)bis[4,1-phenyleneoxy[1-(butoxymethyl)-2,1-ethanediyl]oxymethylene]]bisoxirane, CAS Reg. No. 71033–08–4, for use only in coatings intended for contact with bulk dry foods at temperatures below 100 ½F.

* * * * *

Dated: October 25, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–28850 Filed 11–3–99; 8:45 am]

BILLING CODE 4160–01–F

POSTAL SERVICE

39 CFR Part 20

Priority Mail Global Guaranteed

AGENCY: Postal Service.

ACTION: Amendment to interim rule.

SUMMARY: On April 19, 1999, the Postal Service announced in the **Federal Register** (62 FR 19039–19042) the introduction of Priority Mail Global Guaranteed on an interim basis and requested comment from the public. Comments were received until May 19, 1999. The Postal Service is amending the interim rule to increase the number of acceptance locations and destination countries and territories. All other conditions of service, including rates, remain the same. Additionally, the Postal Service is responding to the public comments.

EFFECTIVE DATE: November 1, 1999. Comments on the amendment to the interim rule must be received on or before December 6, 1999.

ADDRESSES: Written comments should be mailed or delivered to the Manager, International Finance, International Business, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 370–IBU, Washington, DC 20260–6500. Copies of all written comments will be available for public inspection between 9 a.m. and 4 p.m., Monday through Friday, in International Business, 10th Floor, 901 D Street SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Walter J. Grandjean, (202) 314–7256.

SUPPLEMENTARY INFORMATION: On April 19, 1999, the Postal Service announced in the **Federal Register** (62 FR 19039–19042) the introduction of Priority Mail Global Guaranteed on an interim basis and requested comment from the public.

The U.S. Postal Service, through an alliance with DHL Worldwide Express Inc., is offering an enhanced expedited service, Priority Mail Global Guaranteed, from selected locations in the United States to selected countries. This service offers day-certain delivery with postage refund guarantee and document reconstruction coverage of $100 for allowable contents. Comments were requested by May 19, 1999.

By that date the Postal Service received comments from one company, United Parcel Service (UPS), concerning the interim rule. UPS challenged the service in two areas. First, UPS argued that the Postal Service-DHL contract pursuant to which the service is provided appears to be an unauthorized transaction that is contrary to law. Second, UPS asserts that the rates for Priority Mail Global Guaranteed may be below cost, in violation of the Postal Reorganization Act.

UPS states that the arrangement with DHL provides for the air transportation of mail. UPS asserts that this is a contract for air transportation services and that such a contract must comply with 39 U.S.C. 5402, which requires that contracts be filed with the Secretary of Transportation, that contracts be for at least 750 pounds of mail per flight, and that mail transported under contract consist of not more than 5 percent letter mail by weight. UPS's premise for these comments, that there is a contract between the Postal Service and DHL for the transportation of PMGG, is not correct. No such contract has been made. PMGG items are tendered to DHL as an air carrier authorized to transport mail by its certificate of public convenience and necessity in the same manner as mail is tendered to other certificated air carriers. The rates of compensation for the international air transportation service performed by DHL are as prescribed by the Secretary of Transportation under section 41901(b). As there is no contract for air carriage, there is no basis for UPS's comments in this respect.

UPS asserts that the rates for Priority Mail Global Guaranteed may be below

cost, in violation of the Postal Reorganization Act. The basis for this assertion is that the rates for Priority Mail Global Guaranteed are alleged to be as much as 65 percent lower than the published rates charged by courier companies for comparable services and lower than the rates charged by DHL for comparable service. UPS further asserts that the rates for other USPS delivery services are below cost, and that this also is grounds for suspecting that the rates for Priority Mail Global Guaranteed are below cost. UPS does not, however, provide any tangible evidence that the revenues from Priority Mail Global Guaranteed do not cover costs.

In general, rates for postal services should cover costs over some relevant period of time. The rates for Priority Mail Global Guaranteed were designed to do that, based on the unique costs of that service. Nothing in UPS's comments provides any basis for changing the Postal Service's conclusion that the rates for Priority Mail Global Guaranteed cover its costs. The prices courier companies charge for their services are not probative evidence that rates for Priority Mail Global Guaranteed are non-compensatory, since courier prices are based on the costs incurred by those companies and on their perceptions of what their users are willing to pay for the service provided. Similarly, the prices charged by DHL for the services it provides by itself are not a reliable guide to what Priority Mail Global Guaranteed rates should be, nor do they provide any probative evidence that Priority Mail Global Guaranteed rates do not cover costs. The costs DHL incurs in its own services are not the same as the costs the Postal Service incurs in performing similar functions in providing Priority Mail Global Guaranteed. Finally, the allegation that the rates for some other Postal Service offerings do not produce revenues that cover costs does not provide any evidence that the rates for Priority Mail Global Guaranteed do not produce revenues that cover costs. The rates for each Postal Service offering are based on the costs incurred in providing that particular offering and that offering alone. In each case, Postal Service offerings are priced to produce revenues greater than costs, although in rare cases unforeseen circumstances or events can produce results that might not be as projected. In any event, UPS has provided no information that would cause the Postal Service to change its view that the rates developed for Priority Mail Global Guaranteed will produce revenues greater than costs.

The Postal Service is not adopting a final rule at this time. The Postal Service is amending the interim rule to increase the number of metropolitan areas that can accept Priority Mail Global Guaranteed and the number of destinations to which it may be sent. This is an expansion of origins and destinations only, and all other conditions of service remain the same.

Service will be available from the following ZIP Code areas:

Metropolitan area	ZIP code
Arizona: Phoenix	850, 852–853.
California:	
Los Angeles, Oakland, San Francisco/San Jose	900, 902–908, 910–918, 926–928, 937, 939–941, 943–944, 946, 949–951, 954.
Colorado: Denver	802.
Connecticut: Stamford	060–069.
Delaware: Wilmington	197–199.
District of Columbia	200, 202–203, 205.
Florida:	
Fort Lauderdale, Jacksonville, Miami, Orlando, Tampa	320, 322, 327–338, 342, 346–347.
Georgia: Atlanta	300–303, 305–306, 311.
Illinois: Chicago	600–608, 610–611, 620, 622, 629.
Indiana: Indianapolis	460–470, 472–475, 478–479.
Kentucky: Newport	410, 452.
Maine: Portland	039–041.
Maryland: Baltimore	206–212, 214, 217, 219.
Massachusetts: Boston	010–027.
Michigan:	
Detroit, Grand Rapids	481–482, 486–491, 493–497, 530–531.
Minnesota:	
Minneapolis, Saint Paul	550–551, 553–554, 558–559.
Missouri: St. Louis	630–631, 633.
New Hampshire: Manchester	030–034, 038.
New Jersey:	
Jersey City, Newark	070–085, 087–089.
New York:	
Flushing, New York City	100–101, 103–105, 107, 109–119, 124–127.
North Carolina:	
Charlotte, Greensboro, Raleigh	270–278, 280–282, 286.
Ohio:	
Akron, Cincinnati, Cleveland, Columbus, Dayton, Toledo, Youngstown.	430–438, 440–458.
Pennsylvania: Philadelphia	189–191, 193–196.
Rhode Island: Providence	028–029.
Tennessee: Nashville	372.
Texas:	
Dallas, Fort Worth, Houston, Lubbock, San Antonio	750–752, 760–764, 769–770, 772–778, 780–782, 784, 791, 794.
Virginia: Richmond	201, 220–225, 230–232, 238–239.
Vermont: Burlington	054, 056.
Washington: Seattle	980–982.
Wisconsin: Milwaukee	530–532, 534.

Service will be available to the following countries and territories:

Anguilla, Antigua and Barbuda, Aruba, Australia, Austria, Bahamas, Barbados, Belgium, Bermuda, British Virgin Islands, Canada, Cayman Islands, Denmark, Dominica, Dominican Republic, Finland, France (includes Monaco), Germany, Gibraltar, Great Britain and Northern Ireland (includes Guernsey and Jersey), Greece, Grenada, Guadeloupe (includes St. Barthelemey), Haiti, Hong Kong, Indonesia, Ireland, Italy, Jamaica, Korea, Republic of (South Korea), Liechtenstein, Luxembourg, Macao, Malaysia, Malta, Martinique, Mexico, Montserrat, Netherlands, Netherlands Antilles (includes Bonaire, Curacao, St. Eustatius, and St. Maarten), New Zealand, Norway, Philippines, Portugal, Saint Christopher (St. Kitts) and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Singapore, Spain (includes Canary Islands), Sweden, Switzerland, Taiwan, Thailand, Trinidad and Tobago, Turks and Caicos Islands, and Vietnam.

Although the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites public comment on the amendment to the interim rule at the above address.

The Postal Service is amending International Mail Manual Chapter 2, Conditions for Mailing, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 20.1.

A transmittal letter changing the relevant pages in the International Mail Manual will be published and automatically transmitted to all subscribers. Notice of issuance of the transmittal will be published in the **Federal Register** as provided by 39 CFR 20.3.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal service.

The Postal Service adopts the following amendments to the International Mail Manual.

PART 20—[AMENDED]

1. The authority citation for 39 CFR Part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

2. Chapter 2 of the International Mail Manual is amended as follows:

2 Conditions for Mailing

* * * * *

210 Express Mail International Service

* * * * *

215 Priority Mail Global Guaranteed

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215.3 Service Areas

215.31 Origins

Priority Mail Global Guaranteed service is available only from the following ZIP Code areas:

Metropolitan area	ZIP code
Arizona: Phoenix	850, 852–853.
California:	
Los Angeles, Oakland, San Francisco/San Jose	900, 902–908, 910–918, 926–928, 937, 939–941, 943–944, 946, 949–951, 954.
Colorado: Denver	802.
Connecticut: Stamford	060–069.
Delaware: Wilmington	197–199.
District of Columbia	200, 202–203, 205.
Florida:	
Fort Lauderdale, Jacksonville, Miami, Orlando, Tampa	320, 322, 327–338, 342, 346–347.
Georgia: Atlanta	300–303, 305–306, 311.
Illinois: Chicago	600–608, 610–611, 620, 622, 629.
Indiana: Indianapolis	460–470, 472–475, 478–479.
Kentucky: Newport	410, 452.
Maine: Portland	039–041.
Maryland: Baltimore	206–212, 214, 217, 219.
Massachusetts: Boston	010–027.
Michigan: Detroit, Grand Rapids	481–482, 486–491, 493–497, 530–531.
Minnesota:	
Minneapolis, Saint Paul	550–551, 553–554, 558–559.
Missouri: St. Louis	630–631, 633.
New Hampshire: Manchester	030–034, 038.
New Jersey: Jersey City Newark Newark.	070–085, 087–089.
New York: Flushing, New York City	100–101, 103–105, 107, 109–119, 124–127.
North Carolina: Charlotte, Greensboro, Raleigh	270–278, 280–282, 286.
Ohio:	
Akron, Cincinnati, Cleveland, Columbus, Dayton, Toledo, Youngstown.	430–438, 440–458.
Pennsylvania: Philadelphia	189–191, 193–196.
Rhode Island: Providence	028–029.
Tennessee: Nashville	372.
Texas:	
Dallas, Fort Worth, Houston, Lubbock, San Antonio	750–752, 760–764, 769–770, 772–778, 780–782, 784, 791, 794.
Virginia: Richmond	201, 220–225, 230–232, 238–239.
Vermont: Burlington	054, 056.
Washington: Seattle	980–982.
Wisconsin: Milwaukee	530–532, 534.

215.32 Destinations

Priority Mail Global Guaranteed service is available only to the following countries and territories:

Anguilla, Antigua and Barbuda, Aruba, Australia, Austria, Bahamas, Barbados, Belgium, Bermuda, British Virgin Islands, Canada, Cayman Islands, Denmark, Dominica, Dominican Republic, Finland, France (includes Monaco), Germany, Gibraltar, Great Britain and Northern Ireland (includes Guernsey and Jersey), Greece, Grenada, Guadeloupe (includes St. Barthelemey), Haiti, Hong Kong, Indonesia, Ireland, Italy, Jamaica, Korea, Republic of (South Korea), Liechtenstein, Luxembourg, Macao, Malaysia, Malta, Martinique, Mexico, Montserrat, Netherlands, Netherlands Antilles (includes Bonaire, Curacao, St. Eustatius, and St. Maarten), New Zealand, Norway, Philippines, Portugal, Saint Christopher (St. Kitts) and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Singapore, Spain (includes Canary Islands), Sweden, Switzerland, Taiwan, Thailand, Trinidad and Tobago, Turks and Caicos Islands, and Vietnam.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 99–28650 Filed 11–3–99; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 211–0189; FRL–6466–4]

Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing limited approval and limited disapproval of a revision to the California State Implementation Plan (SIP) proposed in the **Federal Register** on March 17, 1999. This final action will incorporate this rule into the federally approved SIP. The intended effect of finalizing this action is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rule controls VOC emissions from adhesive and sealant products. Thus, EPA is finalizing a simultaneous limited approval and limited disapproval under CAA provisions regarding EPA action on SIP submittals and general rulemaking authority because this revision, while strengthening the SIP, also does not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas. As a result of this limited disapproval EPA will be required to impose highway funding or emission offset sanctions under the CAA unless the State submits and EPA approves corrections to the identified deficiencies within 18 months of the effective date of this disapproval. Moreover, EPA will be required to promulgate a Federal implementation plan (FIP) unless the deficiencies are corrected within 24 months of the effective date of this disapproval.

EFFECTIVE DATE: This action is effective on December 6, 1999.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Office, [AIR–4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105

Environmental Protection Agency, Air Docket (6102), 401 ''M'' Street, SW., Washington, DC 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95814

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office, [AIR–4], Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1199.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rule being approved into the California SIP is Bay Area Air Quality Management District, BAAQMD, Rule 8–51, Adhesive and Sealant Products. This rule was submitted by the California Air Resources Board, CARB, to EPA on June 23, 1998.

II. Background

On March 17, 1998 in 64 FR 13143, EPA proposed granting limited approval and limited disapproval of BAAQMD Rule 8–51, Adhesive and Sealant Products into the California SIP. Rule 8–51 was adopted by the BAAQMD on January 7, 1998. This rule was submitted by the CARB to EPA on June 23, 1998. This rule was submitted in response to EPA's 1988 SIP Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for this rule and nonattainment area is provided in the proposed rule (PR) cited above.

EPA has evaluated the rule for consistency with the requirements of the CAA and EPA regulations and EPA's interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the PR. EPA is finalizing the limited approval of this rule in order to strengthen the SIP and finalizing the limited disapproval requiring the correction of the remaining deficiencies. The rule contains inadequate recordkeeping, director's discretion, and unsubstantiated deviations from RACT level controls. A detailed discussion of the rule provisions and evaluation have been provided in the PR and in the February 1999 technical support document (TSD) available at EPA's Region IX office.

III. Response to Public Comments

A 30-day public comment period was provided in 64 FR 13143. EPA received one comment letter on the PR from the BAAQMD. The comments have been evaluated by EPA and a summary of the comments and EPA's responses are set forth below.

Comment: The BAAQMD commented that no clear guidance on recordkeeping intervals exists for rules like Rule 8–51 which specify product VOC limits. The BAAQMD argues that, although section 113(b) of the CAA establishes a daily penalty limit of $25,000 and might serve as a rationale for a daily recordkeeping requirement, no regulatory language compels daily recordkeeping. BAAQMD asserts that monthly recordkeeping as required by Section 501 is sufficient. Furthermore, BAAQMD emphasized that daily recordkeeping is burdensome for small businesses and does not enhance enforceability.

Response: Rule 8–51 was evaluated against the CAA and the documents cited in the TSD. The EPA's recordkeeping policies have been further interpreted and clarified in other EPA rulemakings and communications, including a June 19, 1996 guidance document on recordkeeping which was distributed to all air districts in Region IX including the BAAQMD (Rule Development Recordkeeping Policy, under June 27, 1996 cover letter from Daniel Meer). The June 19, 1996

guidance document states that ''if a source uses only compliant materials, recordkeeping on a less frequent basis than daily may be acceptable.'' Records kept on a less frequent basis than daily are not acceptable when noncompliant materials are used. Daily records are the rule and monthly records are the exception to that rule. Requiring daily records does not impose any additional burden; rather, allowing monthly records provides relief for sources that use only compliant materials. On a practical level, we expect most sources will take advantage of this relief because compliant materials are widely available. EPA's recordkeeping requirements may allow flexibility for sources that operate in compliance with prohibitory rules, however, rules that allow additional flexibility must sufficiently deter sources that operate in a deliberately noncompliant manner by designating significant monetary penalties. EPA maintains that daily records are necessary for enforcement purposes whenever noncompliant materials are used.

Comment: BAAQMD contends that section 501.4 which allows for alternate recordkeeping plans was previously approved into the SIP in a similar rule. BAAQMD believed that it had addressed all approvability issues concerning this provision. The District indicated that rule revisions consume valuable time and limited resources and are less justifiable when little or no emissions reductions will result.

Response: Each EPA action on State submitted SIP revisions clearly notes that nothing in that particular action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to the SIP is considered independently in light of specific technical, economic, and environmental factors. Therefore, approval of certain language in one rule does not justify or necessitate the approval of similar language in another rule. Section 501.4 currently fails to indicate what constitutes an acceptable reporting period and allows the Executive Officer to approve changes to the reporting period without submitting a SIP revision. This violates the requirement in section 110 of the CAA that SIPs must be enforceable. Minimally, section 501.4 should require monthly records for sources using only compliant coatings and daily records for sources using any noncompliant coatings. Furthermore, any violation of rule standards should constitute a violation for each day of the reporting period. Modification of this provision will not impose an undue burden on the District since other areas of the rule already need to be modified as discussed in this rulemaking.

Comment: BAAQMD acknowledges that several VOC content limits contained in Rule 8–51 exceed the limits contained in the State of California's guidance document and attribute this to the fluidity of that document. BAAQMD contends that all deviations from the state's guidance were substantiated in an equivalency determination using the best available data. BAAQMD asserts that a source-by-source accounting of emissions is impossible since Rule 8–51 regulates thousands of sources in many industrial categories. BAAQMD indicates that they will revise Rule 8–51 to be consistent with the state's guidance document for deviations (a) and (d) through (i) as identified in the TSD. With regard to deviation (b), BAAQMD states that the 540 g/L limit complies with the state's guidance document and that a 250 g/L limit represents best available retrofit control technology (BARCT) which is more stringent than federal RACT. To justify deviation (c), BAAQMD provided additional information to indicate that the 100 g/L limit for retreading large tires is technologically infeasible because chlorinated solvents are regulated in BAAQMD as hazardous air pollutants. Other districts comply with the 100 g/L limit by allowing the use of certain chlorinated solvents. Furthermore, BAAQMD commented that the costs to abate emissions from large tire retreading were economically infeasible. BAAQMD asserted that the 480 g/L limit identified in the TSD as deviation (j) was included in the rule to accommodate a product that functions to both bond and seal polyvinyl chloride (PVC). BAAQMD asserts that the product should be allowed to meet the 480 g/L limit, instead of the 420 g/L limit which applies to other sealants, in order to account for the product's ability to bond PVC. The manufacturer had two customers in 1997, both outside the BAAQMD, and sold their product in containers with a capacity less than 16 ounces. BAAQMD states that it will adopt a small container exemption allowed by the state's guidance document during the next revision to Rule 8–51 to address deviation (j).

Response: EPA appreciates the difficulty of regulating and characterizing the emissions from this varied source category. BAAQMD committed to remedying deviations (a) and (d) through (i) and should proceed with those rule corrections in a timely manner to avoid the sanctions described above. With regard to deviation (b), EPA agrees with BAAQMD that the 250 g/L limit is BARCT and is not required to meet federal RACT requirements. The additional information provided in relation to deviation (c) adequately justifies this exemption for retreading large tires. BAAQMD should also correct the deficiency identified as deviation (j) as promised possibly by adopting a small container exemption. However, EPA questions the need to revise the rule to accommodate a product that BAAQMD indicates is not sold in the District.

III. EPA Action

EPA is finalizing a limited approval and a limited disapproval of the above-referenced rule. The limited approval of this rule is being finalized under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited in the sense that the rule strengthens the SIP. However, the rule does not meet the section 182(a)(2)(A) CAA requirement because of the rule deficiencies which are discussed above. Thus, in order to strengthen the SIP, EPA is granting limited approval of this rule under sections 110(k)(3) and 301(a) of the CAA. This action approves the rule into the SIP as a federally enforceable rule.

At the same time, EPA is finalizing the limited disapproval of this rule because it contains deficiencies that have not been corrected as required by section 182(a)(2)(A) of the CAA, and, as such, the rule does not fully meet the requirements of Part D of the Act. As stated in the PR, upon the effective date of this final rule, the 18 month clock for sanctions and the 24 month FIP clock will begin. Sections 179(a) and 110(c). If the State does not submit the required corrections and EPA does not approve the submittal within 18 months of the effective date of the final rule, either the highway sanction or the offset sanction will be imposed at the 18 month mark. It should be noted that the rule covered by this final rulemaking has been adopted by the BAAQMD and is currently in effect in the BAAQMD. EPA's limited disapproval action will not prevent the BAAQMD or EPA from enforcing this rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, Regulatory Planning and Review.

B. Executive Order 12875

Under E.O. 12875, Enhancing the Intergovernmental Partnership, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

Under E.O. 13084, Consultation and Coordination with Indian Tribal Governments, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 3, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to

enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compound.

Dated: October 20, 1999.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(256)(i)(A)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(256) * * *

(i) * * *

(A) * * *

(*2*) Rule 8–51, adopted on November 18, 1992 and amended on January 7, 1998.

* * * * *

[FR Doc. 99–28723 Filed 11–3–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300945; FRL–6391–5]

RIN 2070–AB78

Glufosinate Ammonium; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of glufosinate ammonium (butanoic acid, 2-amino-4-(hydroxymethylphosphinyl)-mono ammonium salt) and metabolite(s) (3-methylphosphinico-propionic acid and 2-acetamido-4-methylphosphinico-butanoic acid), expressed as 2-amino-4-(hydroxymethylphosphinyl) butanoic acid equivalents in or on almond hulls; apples; bananas; cattle fat, meat and meat-byproducts; eggs; goat fat, meat, and meat-by-products; grapes, hog fat, meat, and meat-by-products; horse fat, meat, and meat-by-products; milk; potatoes, potato chips and granules/flakes; poultry fat, meat, and meat-by-products; sheep fat, meat, and meat-by-products; transgenic aspirated grain fractions, transgenic corn, field, forage; transgenic corn, field, grain; transgenic corn, field, stover; transgenic soybean hulls, transgenic soybeans, and tree nuts group. AgrEvo USA Company requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. This regulation also corrects the existing regulation for time-limited tolerances for transgenic canola and sweet corn commodities.

DATES: This regulation is effective November 4, 1999. Objections and requests for hearings, identified by docket control number OPP–300945, must be received by EPA on or before January 3, 2000.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the ''SUPPLEMENTARY INFORMATION'' section. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–300945 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Joanne I. Miller, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 305–6224 and e-mail address: miller.joanne@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically.*You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**--Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–300945. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall ı2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of October 8, l997, (62 FR 52544) (FRL– 5746–9) and July 14, l999 (64 FR 37973) (FRL–6085–5), EPA issued notices pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d) as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of a pesticide petition (PP) for tolerance by AgrEvo USA Company, Little Falls

Centre One, 2711 Centerville Road, Wilmington, DE 19808. These notices included a summary of the petition prepared by AgrEvo USA Company, the registrant. There were no comments received in response to the notices of filing.

These petitions requested that 40 CFR 180.473 be amended by establishing permanent tolerances for combined residues of the herbicide glufosinate ammonium and its metabolite(s) expressed as 2-amino-4-(hydroxymethylphosphinyl) butanoic acid in or on almond hulls at 0.50 part per million (ppm), apples at 0.05 ppm, bananas at 0.3 ppm (not more than 0.2 ppm shall be present in the pulp after peel is removed), cattle, fat and meat at 0.05 ppm; cattle, meat-by-products at 0.10 ppm; eggs at 0.05 ppm, goats, fat and meat at 0.05 ppm; goats, meat-by-products at 0.10 ppm; grapes at 0.05 ppm; hogs, fat and meat at 0.05 ppm; hogs, meat-by-product at 0.10 ppm; horses, fat and meat at 0.05 ppm; horses, meat-by-products at 0.10 ppm; milk at 0.02 ppm, potatoes at 0.8 ppm, potato chips at 1.6 ppm, potato granules/flakes at 2.0 ppm, poultry, fat and meat at 0.05 ppm; poultry, meat-by-products at 0.10 ppm; sheep, fat and meat at 0.05 ppm; sheep, meat-by-products at 0.10 ppm; transgenic aspirated grain fractions at 25.0 ppm, transgenic corn, field, forage at 4.0 ppm; trangenic corn, field, grain at 0.2 ppm; transgenic corn, field stover at 6.0 ppm; transgenic soybeans hulls at 5.0 ppm, transgenic soybeans at 2.0 ppm and tree nut group at 0.1 ppm.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

III. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2), for permanent tolerances for combined residues of glufosinate ammonium and its metabolite(s) in or on almond hulls at 0.50 ppm, apples at 0.05 ppm, bananas at 0.3 ppm (not more that 0.2 ppm shall be present in the pulp after peel is removed), cattle, fat and meat at 0.05 ppm; cattle, meat-by-products at 0.10 ppm, eggs at 0.05 ppm, goats, fat and meat at 0.05 ppm; goats, meat-by-products at 0.10 ppm; grapes at 0.05 ppm, hogs, fat and meat at 0.05 ppm; hogs, meat-by-product at 0.10 ppm; horses, fat and meat at 0.05 ppm; horses, meat-by-products at 0.10 ppm; milk at 0.02 ppm; potatoes at 0.8 ppm; potato chips at 1.6 ppm; potato granule/flakes at 2.0 ppm; poultry, fat and meat at 0.05 ppm; poultry, meat-by-products at 0.10 ppm; sheep, fat and meat at 0.05 ppm; sheep, meat-by-products at 0.10 ppm; transgenic aspirated grain fractions at 25.0 ppm, transgenic corn, field, forage at 4.0 ppm; transgenic corn, field, grain at 0.2 ppm; transgenic corn, field, stover at 6.0 ppm; transgenic soybeans, hulls at 5.0 ppm; transgenic soybeans at 2.0 ppm and tree nuts group at 0.1 ppm. The addition (a corrective action on the Administrator's own initiative under section 408(e)(A)(C) of a second metabolite (2-acetamido-4-methylphosphinico-butamoic acid, expressed as 2-amino-4-(hydroxymethylphosphinyl) butanoic acid equivalents) to the residues of glufosinate ammonium found in transgenic canola and sweet corn commodities is consistent with section 408(b)(2)(D) and is appropriate because the second metabolite consistently occurs in commodities derived from transgenic plants. The risk assessment included the second metabolite found in canola and sweet corn commodities. EPA's assessment of the dietary exposures and risks associated with establishing these tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by are discussed in this unit.

1. Glufosinate ammonium (also referred to as DL-glufosinate ammonium or HOE 039866) is toxicity category III for acute oral, dermal, and eye irritation toxicities. It is toxicity category III for inhalation toxicity. It is not a dermal irritant (toxicity category IV) nor is it a dermal sensitizer.

2. In a sub-chronic oral toxicity study, glufosinate-ammonium (95.3% active ingredient (a.i.)) was administered to 10 NMRI mice/sex/dose in the diet at levels of 0, 80, 320 or 1,280 ppm (equivalent to 0, 12, 48 or 192 millgrams/kilogram/day (mg/kg/day)) for 13 weeks. Significant ($p < 0.05$) increases were observed in serum aspartate aminotransferase and in alkaline phosphatase in high-dose (192 mg/kg/day) males. Also observed were increases in absolute and relative liver weights in mid-(48 mg/kg/day) and high-dose males. The no observed adverse effect level (NOAEL) is 12 mg/kg/day, the lowest observed adverse effect level (LOAEL) is 48 mg/kg/day based on the changes in clinical biochemistry and liver weights.

3. In a 21–day repeated dose dermal toxicity study, groups of 6 male and 6 female Wistar rats were treated with HOE 039866 (95.3%) in deionized water by dermal occlusion at doses of 0, 100, 300 or 1,000 mg/kg/day, 6 hours/day, 5 days/week for 21 applications in 30 days. An additional five males and five females/dose group were dose and observed for 44 days in a ''recovery study''. Two of 6 LDT males at 300 mg/kg/day, and 4 of 11 males and two of 11 females at 1,000 mg/kg/day displayed aggressive behavior, piloerection and a high startle response. There were no effects of toxicological importance on body weights, food consumption, hematology, clinical chemistry, urinalysis, organ weights, or gross or microscopic pathology. Based on clinical observations, the LOAEL is 300 mg/kg/day and the NOAEL is 100 mg/kg/day.

4. In an oncogenicity study, HOE 039866 (glufosinate ammonium) was administered to 50 NMRI mice/sex/dose in the diet at dose levels of 0, 80, 160 (males only) or 320 (females only) ppm for 104 weeks. Dose levels corresponded to 0, 2.83, 10.82, 22.60 mg/kg/day in males and 0, 4.23, 16.19, 66.96 mg/kg/

day in females. The NOAEL for systemic toxicity is 80 ppm (10.82/16.19 mg/kg/day in males/females (M/F)), and the LOAEL is 160/320 ppm (22.60/63.96 mg/kg/day in M/F), based on increased mortality in males, increased glucose levels in males and females, and consistent changes in glutathione levels in males. No increase in tumor incidence was found in any treatment group.

5. In a chronic feeding study, HOE 039866 technical was fed to male and female beagle dogs for 12 months in the diet at levels of 2.0, 5.0 or 8.5 mg/kg/day. There were no overt signs of toxicity or dose-related effects on body weight, food consumption, ophthalmology, hematology, clinical chemistry, urinalyses or organ weights. Two dogs receiving 8.5 mg/kg/day died during the study as a result of heart and circulatory system failure from rapid diet consumption and necrotizing aspiration pneumonia. Electrocardiogram results of dosed males and females indicated a dose-related decrease in heart rate at 6 months; heart rates of dosed animals at 12 months were considered to be normal. The NOAEL is 5.0 mg/kg/day, the LOAEL is 8.5 mg/kg/day based on mortality.

6. In a rat oncogenicity study, glufosinate-ammonium (95.2–96.0% a.i.) was administered to Wistar rats (60/sex/group) for up to 24 months at 0, 1,000, 5,000, or 10,000 ppm (equivalent to 0, 45.4, 228.9, or 466.3 mg/kg/day in males and 0, 57.1, 281.5, or 579.3 mg/kg/day in females). The LOAEL for chronic toxicity is 5,000 ppm (equivalent to 228.9 mg/kg/day for male rats and 281.5 mg/kg/day for females), based on increased incidences of retinal atrophy. The chronic NOAEL is 1,000 ppm. Under the conditions of this study, there was no evidence of carcinogenic potential. Dosing was considered adequate based on increased incidences of retinal atrophy.

7. In a combined chronic toxicity/oncogenicity study, glufosinate ammonium was administered to 50 Wistar rats/sex/dose in the diet for 24 months at dose levels of 0, 40, 140, or 500 ppm (mean compound intake in males was 0, 1.9, 6.8, and 24.4 mg/kg/day and for females was 0, 2.4, 8.2 and 28.7 mg/kg/day, respectively). The LOAEL is 2.4 mg/kg/day (LDT) based on the increase in kidney glutamine synthetase activity and increased kidney weights in females. A NOAEL was not established. There was no clear demonstration of increased tumor incidence following exposure to glufosinate ammonium. Dosing was considered adequate based on the increase in kidney glutamine synthetase activity and increased kidney weights in females.

8. In a developmental toxicity study, groups of 20 pregnant female Wistar rats were administered by gavage HOE 039866 (glufosinate ammonium, 96.9 a.i.) at doses of 0, 0.5, 2.24 10, 50 and 250 mg/kg/day from days 7 to 16 of pregnancy. The NOAEL for maternal toxicity is 10 mg/kg/day; the LOAEL is 50 mg/kg/day based on vaginal bleeding and hyperactivity in dams. In the fetus, the NOAEL is 50 mg/kg/day, based on dilated renal pelvis at the LOAEL of 250 mg/kg/day.

9. In a developmental toxicity study, groups of 15 pregnant female Himalayan rabbits were administered by gavage HOE 039866 at doses of 0, 2.0, 6.3 or 20.0 mg/kg/day from days 7 to 19 of pregnancy. The NOAEL for both maternal toxicity and developmental toxicity was 2.0 mg/kg/day. The LOAEL is 6.3 mg/kg/day based on reduced food consumption, body weight and weight gains and increased kidney weights in dams, and incomplete ossification in fetuses with fetal death at 20 mg/kg/day.

10. In a multigeneration reproduction study, glufosinate ammonium was administered to groups of 30 male and 30 female Wistar/Han rats in the diet at concentrations of 0, 40, 120 or 360 ppm (approximately 2.0, 6.0, 18.0 mg/kg). The LOAEL for systemic toxicity is 120 ppm (6 mg/kg/day) based on increased kidney weights in both sexes and generations. The systemic toxicity NOAEL is 40 ppm (2 mg/kg/day). The LOAEL for reproductive/developmental toxicity is 360 ppm (18 mg/kg/day) based on decreased number of viable pups in all generations. The NOAEL is 120 ppm.

11. There is no concern for mutagenic activity in several studies, including: *Salmonella* spp., *E. coli, in vitro* mammalian cell gene mutation assays, mammalian cell chromosome aberration assays, *in vivo* mouse bone marrow micronucleus assays, and unscheduled DNA synthesis assays.

12. A rat metabolism study with dermal application showed that about 50% of the given radioactivity is absorbed 48 hours after a single dose application. In other metabolism studies, it was shown that over 80% of administered radioactivity is excreted within 24 to 48 hours as the parent compound in the feces and kidneys. Highest tissue levels were found in liver, kidney and gonads.

A consistent pattern of neurotoxicity was seen in several studies, including the subchronic, developmental and chronic studies in rats, mice and dogs. In addition to the clinical signs such as hyperactivity, aggressive behavior, piloerection, high startle response, retinal atrophy was observed. Changes in glutamine synthetase levels were observed in liver, kidney and brain in rats. These occurrences raise concern for the mechanism of neurotoxicity in these studies, an area where there are data gaps. It is expected that the requested neurotoxicity studies will provide the information needed for further characterization of these effects.

Additional testing was conducted with the major metabolites, HOE 061517 and HOE 099730, as well as the L-isomer, identified as HOE 058192. These compounds, tested in subchronic rat, mouse and dog studies, and in developmental toxicity studies in rat and rabbit showed a similar profile of toxicity as the parent compound (HOE 039866).

B. Toxicological Endpoints

1. *Acute toxicity.* An acute Reference dose (RfD) was not established for the general population. No appropriate toxicological endpoint attributable to a single exposure was identified in the available toxicity studies. However, an acute RfD of 0.063 mg/kg/day was established for the females 13+ subgroup, based on a developmental NOAEL of 6.3 mg/kg/day in the rabbit and a 100x uncertainty factor (10x inter-10x intra-species extrapolation). The developmental LOAEL (20 mg/kg/day) was based on reduced fetal body weight and increased fetal death. The FQPA safety factor of 10x was reduced to 3x because there was no qualitative or quantitative indication of increased susceptibility in the prenatal developmental toxicities in rats and rabbits or in the 2–generation reproductive study in rats with parent compound, the isomer or metabolites of concern. Toxicological studies showed neurological effects in short term studies described as aggressive behavior, piloerection and a high startle response at dosages of 300 mg/kg/day. Based on these effects, EPA determined that a 3x FQPA safety factor was appropriate for the risk assessment for the food and feed used of glufosinate ammonium. Using the 3x FQPA safety factor, the acute population adjusted dose (aPAD) for glufosinate ammonium is 0.021 mg/kg/day.

2. *Short-, intermediate-, and long-term toxicity.—i. Dermal.* Short- and intermediate-term dermal toxicity risk assessments were recommended based on neurological clinical signs (hyperactivity, aggressive behavior, pilo erection) observed in the 21–day dermal study at 300 mg/kg/day (LOAEL). The NOAEL was 100 mg/kg/day. A long-

term dermal risk assessment was recommended based on the NOAEL of 2.1 mg/kg/day established in the 2–year chronic study in rats (see chronic dietary; 50% dermal absorption).

ii. *Inhalation*. With the exception of an acute inhalation study, no other inhalation studies were available. Therefore, oral NOAELs were selected for inhalation risk assessments. Because an oral dose was used, the exposure assessments was conducted by converting the application rate to oral equivalents and assuming 100% absorption.

Short-term inhalation risk assessments were recommended based on the developmental NOAEL of 6.3 mg/kg/day in the rabbit (see acute dietary endpoint). Intermediate-term inhalation risk assessments were recommended based on the NOAEL of 2.1 mg/kg/day from the 2–year chronic rat study (see chronic dietary endpoint below).

3. *Chronic toxicity*. EPA has established the RfD for glufosinate ammonium at 0.021 mg/kg/day based on the NOAEL of 2.1 mg/kg/day in the 2–year chronic study in rats and a 100x uncertainty factor (10x inter- 10x intra-species extrapolation). The LOAEL in the study was based on increased kidney weight and kidney/brain weight in males at 52 weeks (6.8 mg/kg/day) and decreased survival in females at 130 weeks (8.2 mg/kg/day). Using the 3x FQPA safety factor, the chronic population adjusted dose (cPAD) for glufosinate ammonium is 0.007 mg/kg/day.

4. *Carcinogenicity*. Based on a lack of mutagenic potential as assessed in a battery of mutagenicity assays and the absence of treatment-related tumors in rats and mice at dose levels adequate for assessment, the EPA has determined that glufosinate ammonium is not likely a carcinogen; and has classified it as a ''Group E -- Evidence of Non-Carcinogenicity for Humans'' chemical.

C. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.473 for the combined residues of glufosinate ammonium and its metabolites, in or on a variety of raw agricultural commodities. All tolerances listed under Unit III of this Rule except those for potatoes at 0.8 ppm, potato chips at 1.6 ppm, potato granules/flakes at 2.0 ppm, were previously established as time-limited tolerances with expiration dates. This rule addresses a pending petition for these tolerances and the establishment of the time-limited tolerances as permanent tolerances for this pesticide. Risk assessments were conducted by EPA to assess dietary exposures from tolerance levels of residue as follows:

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of crop treated (PCT) for assessing chronic dietary risk only if the Agency can make the following findings: that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; that the exposure estimate does not underestimate exposure for any significant sub-population group; and that if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows:

The chronic dietary exposure analysis assumed tolerance level residues for all registered and proposed commodities. The weighted average percent crop treated was incorporated for all registered commodities. Sweet corn and proposed commodities were maintained at 100% crop treated.

The Agency believes that the three conditions listed above have been met. The percent of crop treated estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average percent crop treated for chronic dietary exposure estimates. This weighted average percent crop treated figure is derived by averaging state-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the percent crop treated reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average percent crop treated over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum percent crop treated. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed,and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. The regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which pesticide glufosinate ammonium may be applied in a particular area.

i. *Acute exposure and risk*. The acute dietary exposure analysis for females 13+ (no acute dietary endpoint was identified for the general U.S. population including infants and children) assumed tolerance level residues and 100% crop treated for all registered and proposed commodities (Tier 1 analysis). The most highly exposed population was females 13+/nursing at 58% of the aPAD (95th percentile). Acute dietary food exposure to glufosinate ammonium is below EPA's level of concern.

ii. *Chronic exposure and risk*. The chronic dietary exposure analysis assumed tolerance level residues for all registered and proposed commodities. The weighted average percent crop treated was incorporated for all registered commodities. Sweet corn and proposed commodities were maintained at 100% crop treated. The most highly exposed population was children 1–6 years old at 71% of the cPAD (0.004974 mg/kg/day). Chronic dietary food exposure to glufosinate ammonium is below EPA's level of concern.

2. *From drinking water.* Aggregate exposures are generally calculated by summing dietary (food and water) and residential exposures. If the aggregate exposure is less than the specified PAD, the exposure is not expected to be a concern. Because EPA does not have ground and surface water monitoring data to calculate a quantitative aggregate exposure, a drinking water level of concentration (DWLOC) was calculated. The DWLOC is the upper limit of a chemical's concentration in drinking water that will result in an acceptable aggregate exposure. The DWLOC is used as a point of comparison against model estimates of a pesticide's concentration

in water. DWLOC values are not regulatory standards for drinking water. They do have indirect regulatory impact through aggregate exposure and risk assessments.

To calculate the acceptable acute and chronic exposure to glufosinate ammonium in drinking water, the dietary food exposure estimate was subtracted from the appropriate PAD (only short-term residential exposure). A DWLOC was then calculated by using default body weights and drinking water consumption figures (70kg/2L (adult male), 60kg/2L (adult female) and 10kg/1L (infant/child)).

The estimated maximum and average concentration of glufosinate ammonium in ground and surface water are less than EPA's DWLOC for glufosinate ammonium as a contribution to acute and chronic aggregate exposure (for all population subgroups).

i. *Acute exposure and risk.* The Agency's analysis based on the information available is presented in the following table 1:

TABLE 1.— ACUTE DWLOCS

Population Subgroup[1]	aPAD mg/kg/day	Food Exposure mg/kg/day	Maximum Water Exposure[2] mg/kg/day	DWLOC[3] ppb	SCI-GROW ppb	PRZM-EXAMS ppb
Females (13+, nursing)	0.021	0.012131	0.008869	270	1.16	34.1

[1] Highest exposed subgroup among females 13+
[2] Maximum water exposure (mg/kg/day) = 0.021 mg/kg/day - acute food exposure (mg/kg/day)
[3] DWLOC = [(maximum water exposure mg/kg/day)(body weight kg)/(water consumption liters)] * 1,000.

ii. *Chronic exposure and risk.* The Agency's analysis based on the information available is presented in the following table.

TABLE 2.— CHRONIC (NON-CANCER) DWLOC

Population Subgroup[1]	cPAD mg/kg/day	Food Exposure mg/kg/day	Maximum Water Exposure[2] mg/kg/day	DWLOC[3] ppb	SCI-GROW ppb	PRZM-EXAMS ppb
U.S. Population	0.007	0.002120	0.004880	170	1.16	0.79
Non-Hispanic blacks	0.007	0.002246	0.004754	170	1.16	0.79
Non-Hispanic/non-.white/non-black	0.007	0.002256	0.004744	170	1.16	0.79
Non-Hispanic whites	0.007	0.002132	0.004868	170	1.16	0.79
Children 1–6 yrs	0.007	0.004974	0.002026	20	1.16	0.79
Females 13+ nursing	0.007	0.002035	0.004965	150	1.16	0.79
Males 13–19 yrs	0.007	0.002449	0.004551	160	1.16	0.79

[1] The subgroups listed above are the following: (1) U.S. Population, (2) the other general subgroups for which the %cPAD is greater than that of the U.S. Population and (3) the most highly exposed population among infants and children, females, and males.
[2] Maximum water exposure (mg/kg/day) = (0.007 mg/kg/day - acute food exposure, (mg/kg/day)); no residential exposure.
[3] DWLOC = [(maximum water exposure mg/kg/day)(body weight kg)/(water consumption liters)]* 1,000.

3. *From non-dietary exposure.* Glufosinate ammonium is currently registered for use on the following non-food sites: areas around ornamentals, shade trees, Christmas trees, shrubs, walks, driveways, flower beds, farmstead buildings, in shelter belts, and along fences. It is also registered for use as a post-emergent herbicide on farmsteads, areas associated with airports, commercial plants, storage and lumber yards, highways, educational facilities, fence lines, ditch banks, dry ditches, schools, parking lots, tank farms, pumping stations, parks, utility rights-of -way, roadsides, railroads, and other public areas and similar industrial and non-food crop areas. It is also registered for lawn renovation uses.

In a pharmacokinetics study with dermal application in rats radioactive glufosinate ammonium at levels of 0.1, 1.0, or 10.0 mg/rat on 6 cm square of shaved skin and exposed for 0.5, 1, 2, 4, 10, 24, or 168 hrs. At the low dose (0.1 mg) 42.5 to 50.8% of the applied radioactivity was absorbed whereas at the high dose (10.0 mg) 26% was absorbed. After removal and washing of the treated skin a substantial amount of the radioactivity still remained in the skin. and it was gradually absorbed and eliminated. Radioactivity was found in both fecies and urine samples, but the majority of glufosinate ammonium was eliminated in the urine. In all organs/tissues examined, radioactivity was found to reach a maximum level either at 4 or 10 hours after exposure. Subsequently, the radioactivity dropped rapidly. The amount of radioactivity found in the brain was minimal relative to that of kidneys and liver. Based on this study, a 50% dermal absorption factor was determined based on the range of 42.5% to 50.8% of radioactivity absorbed at 0.10 mg/kg.

i. *Acute exposure and risk.* There are no acute non-dietary exposure scenarios.

ii. *Chronic exposure and risk.* There are no chronic non-dietary exposure scenarios.

iii. *Short- and intermediate-term exposure and risk.* It is not appropriate to aggregate short- and intermediate-term non-dietary exposure with dietary exposures in this risk assessment because the end-points are different.

iv. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether

glufosinate ammonium has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, glufosinate ammonium does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that glufosinate ammonium has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* The acute dietary exposure analysis assumed tolerance level residues and 100% crop treated for all commodities derived from glufosinate ammonium treated crops. For the most highly exposed subgroup among females 13+ (nursing females), 58% of the aPAD is occupied by dietary (food) exposure, an acute RfD was not established for the general population including infants and children. The estimated glufosinate ammonium concentration in surface and ground water are less than EPA's DWLOC (for all population subgroups). Acute aggregate exposure to glufosinate ammonium and related metabolites, as a result of all registered and proposed uses, is below EPA's level of concern.

2. *Chronic risk.* There are no chronic non-dietary exposure scenarios. Therefore, only food and water are included in the chronic aggregate risk. The chronic dietary exposure analysis assumed tolerance level residues for all commodities derived from the crop use of glufosinate ammonium and incorporated the weighted average percent crop treated for all commodities derived from glufosinate ammonium treated crops, except for sweet corn, registered under section 18 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended. For the most highly exposed subgroup (children, 1–6 years), 71% of the cPAD is occupied by dietary (food) exposure. The estimated glufosinate ammonium concentrations in surface and ground water are less than EPA's DWLOC for all population subgroups. Chronic aggregate exposure to glufosinate ammonium as a result of all registered and proposed uses is below EPA's level of concern. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at or below which daily aggregate dietary exposure over a life time will not pose appreciable risks to human health. Despite the potential for chronic exposure to glufosinate ammonium in drinking water, after calculating a DWLOC (236 parts per billion (ppb)) for the U.S. population and comparing it to conservative model estimates of concentrations of glufosinate ammonium surface and ground water (59.43 ppb and 1.16 ppb, respectively), EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (consider to be a background exposure level) plus indoor and outdoor residential exposure. There are registered residential uses for glufosinate ammonium. The potential dermal exposures were not aggregated because the toxic effects for short- and intermediate-term exposure (neurological clinical signs) and chronic exposure (increases in absolute and relative kidney weights) are different.

4. *Aggregate cancer risk for U.S. population.* There is no cancer concern based on negative results observed in three guideline studies available for the carcinogenicity screen: a chronic feeding study in rats, a carcinogenicity study in rats and a carcinogenicity study in mice, each described under the ''Toxicology Profile'' of this Rule. Glufosinate ammonium has been classified as a ''not likely'' carcinogen according to the EPA Proposed Guidelines for Carcinogn Risk Assessment. Therefore, a cancer risk assessment was not necessary.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to glufosinate ammonium residues.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— i. *In general.* In assessing the potential for additional sensitivity of infants and children to residues of glufosinate ammonium, EPA considered data from developmental toxicity studies in the rat and rabbit and a 2–generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure during gestation. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals, and data on systemic toxicity.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a margin of exposure (MOE) analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard uncertainty factor (usually 100 for combined inter- and intra-species variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies.* Two studies were described in the Toxicology Profile section (See Unit III.A.8. and 9. of this Rule.).

iii. *Reproductive toxicity study.* A reproductive toxicity study was described in the Toxicology Profile (See Unit III.A.10. of this Rule.).

iv. *Pre- and post-natal sensitivity.* The toxicological data base for evaluating prenatal and postnatal toxicity for glufosinate ammonium is complete with respect to current data requirements. There are no prenatal or postnatal susceptibility concerns for infants and children, based on the results of the rat and rabbit developmental toxicity studies and the 2-generation reproduction study.

v. *Other studies.* Based on clinical signs of neurological toxicity in short and intermediate dermal toxicity studies with rats, EPA has determined that an added FQPA safety factor of 3x is appropriate for the risk assessment for the tolerances in the commodities listed in this Final Rule. The FQPA safety factor of 10x was reduced to 3x because there were no qualitative or quantitative indications of increased susceptibility in the prenatal developmental toxicities in rats and rabbits, or in the 2–generation reproductive studies in rats with the parent compound, the isomer or metabolites of concern.

vi. *Conclusion.* There is a complete toxicity database for glufosinate

ammonium, and exposure data is complete or is estimated based on data that reasonably accounts for potential exposures.

2. *Acute risk*. The acute dietary exposure analysis assumed tolerance level residues and 100% crop treated for all registered and proposed commodities. For the most highly exposed subgroup among females 13 – 50 (nursing females), 58% of the aPAD is occupied by dietary (food) exposure (no acute RfD was established for the general population including infants and children). The estimated glufosinate ammonium concentration in surface and ground water are less than EPA's DWLOC (for all population subgroups). Acute aggregate exposure to glufosinate ammonium and related metabolites, as a result of all registered and proposed uses, is below EPA's level of concern.

3. *Chronic risk*. Based on exposure assumptions described above, EPA has concluded that aggregate exposure to glufosinate ammonium from food will utilize 71% of the cPAD for children 1–6 years of age, the most highly exposed subgroup. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for chronic exposure to glufosinate ammonium in drinking water, after calculating a DWLOC (64 ppb) for non-nursing infants and comparing it to conservative model estimates of concentrations of glufosinate ammonium in surface and ground water (59.43 ppb and 11.16 ppb, respectively), EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

4. *Short- or intermediate-term risk*. Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential uses. There are registered residential uses for glufosinate ammonium, however, the potential dermal exposures were not aggregated because the toxic effects for short- and intermediate-term exposure (neurological clinical signs) and chronic exposure (increases in absolute and relative kidney weights) are different.

5. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to residues of glufosinate ammonium residues.

IV. Other Considerations

A. Metabolism in Plants and Animals

1. *Plants*. The nature of the residues of glufosinate ammonium is considered to be understood. The Agency has concluded that the residues of concern are glufosinate ammonium and its metabolites 2-acetamido-4-methylphosphinico-butanoic acid and 3-methylphosphinico-propionic acid expressed as glufosinate ammonium free acid equivalents.

2. *Animals* A rat metabolism study with dermal application indicated that about 50% of the given radioactivity was absorbed 48 hours after a single dose application. In other metabolism studies, it was shown that over 80% of administered radioactivity is excreted within 24 to 48 hours as the parent compound in the feces and kidneys. Highest tissue levels were found in liver, kidney and gonads. The nature of glufosinate ammonium residues in lactating goats and hens is considered to be understood. Glufosinate ammonium and its metabolite (3-methylphosphinico propionic acid) are largely excreted and do not accumulate too any great degree in animal tissues. The only identifiable compounds in feces, urine, milk, eggs and tissues were the parent and 3-methylphosphinico propionic acid. EPA has concluded that the residues of concern in commodities derived from ruminants and poultry are glufosinate ammonium and its metabolite 3-methylphospinico propionic acid, expressed as glufosinate ammonium free acid equivalents.

B. Analytical Enforcement Methodology

In Pesticide Analytical Manual II (PAM II), method HRAV-5A describes an adequate analytical method for determining residues of glufosinate ammonium and its metabolite 3-methylphosphinico propionic acid in or on apples, bananas, grape, potatoes and tree nuts. In PAM II, method HRAV–12, is an adequate method for determining residues of glufosinate ammonium and its metabolite 3-methylphosphinico-propionic acid in or on milk, eggs and tissues of ruminants and poultry. Method XAM–24A, which is a modification of method HRAV–5A is an adequate method for determining residues of glufosinate ammonium and its metabolites in or on transgenic field corn, and transgenic soybeans. The method describes an additional post-extraction cation exchange procedure to allow for separate detection and measurement of each residue component. Final determination is made by gas chromatography with flame photometric detection operating in the phosphorus selective mode (p-mode). Residues are expressed as glufosinate ammonium free acid equivalents.

Adequate enforcement methodology (gas chromatography with mass spectrophotometry) is available to enforce the tolerances for commodities derived from potatoes. The method may be requested from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 305–5229; e-mail address: furlow.calvin@epa.gov.

C. Magnitude of Residues

The residues established by this regulation are qualified and quantified in Unit V of this Rule.

D. International Residue Limits

The Codex Alimentarius Commission has established maximum residue limits (CODEX MRLs) for the combined residues of glufosinate ammonium and 3-methylphosphinico propionic acid, expressed as glufosinate free acid equivalents, in or on potatoes at 0.5 ppm. Because the appropriate U.S. tolerance for potatoes (0.8 ppm) is greater than the CODEX MRL of 0.5 ppm and CODEX MRLs for residues in or on potato chips and potato granules and flakes do not exist, harmonization is not possible. The Codex Alimentarius Commission did not establish MRLs for glufosinate ammonium in processed potato commodities because earlier processing studies in cooked potatoes did not show any concentration of residues after cooking in water. The difference in residues represented by the CODEX MRL of 0.5 ppm and the 0.8 ppm tolerance for residues in or on potatoes established by this Rule was apparently due to differences in the methods used by the two Agencies in determining the level of residues that would be appropriate. The EPA sets tolerances based on the residue level from the highest average field trial where as the CODEX and European authorities use statistical calculations derived from all residue data covering one worst case label for the calculation of MRL proposals.

E. Rotational Crop Restrictions

A 120 day plant-back interval is required for all crops with the exceptions of buckwheat, barley, millet oats, rye, sorghum, triticale and wheat that requires a 70–day plant-back interval. Field corn and soybeans may be planted back any time.

V. Conclusion

Therefore, permanent tolerances are established for combined residues of glufosinate ammonium and its metabolite(s) in or on almond hulls at 0.50 ppm, apples at 0.05 ppm, bananas at 0.3 (not more than 0.2 ppm shall be present in the pulp after peel is removed), cattle, fat and meat at 0.05 ppm; cattle, meat by-products at 0.10 ppm; eggs at 0.05 ppm; goats, fat and meat at 0.05 ppm; goats, meat-by-products at 0.10 ppm; grapes at 0.05 ppm; hogs, fat and meat at 0.05 ppm; hogs, meat-by-products at 0.10 ppm; horses, fat and meat at 0.05 ppm; horses, meat-by-products at 0.10 ppm; milk at 0.02 ppm; potatoes at 0.8 ppm; potato chips at 1.6 ppm; potato granule/flakes at 2.0 ppm; poultry, fat and meat at 0.05 ppm; poultry, meat-by-products at 0.10 ppm; sheep, fat and meat at 0.05 ppm; sheep, meat-by-products at 0.10 pm; transgenic aspirated grain fractions at 25.0 ppm; transgenic corn, field, forage at 4.0 ppm; transgenic corn, field, grain at 0.2 ppm; transgenic corn, field, stover at 6.0 ppm; transgenic soybeans, hulls at 5.0 ppm; transgenic soybeans at 2.0 ppm and tree nuts group at 0.1 ppm.

The time-limited tolerances for residues in transgenic canola and transgenic sweet corn commodities under Section 18 emergency exemptions (64 FR 44829–44836, August 18, l999)) are not replaced, These time-limited tolerances will expire December 1, l999.

VI. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–300945 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before January 3, 2000.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Room M3708, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission be labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' (cite). For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at *tompkins.jim@epa.gov*, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VI.A. of this preamble, you should also send a copy of your request to the PIRB for its inclusion in the official record that is described in Unit I.B.2. of this preamble. Mail your copies, identified by docket number OPP–300945, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PRIB described in Unit I.B.2. of this preamble. You may also send an electronic copy of your request via e-mail to: *opp-docket@epa.gov*. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VII. Regulatory Assessment Requirements

This final rule establishes tolerances under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735,

October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993) and Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998), or special consideration of environmental justice related issues under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994) or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, l997). The Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 12612, entitled Federalism (52 FR 41685, October 30, l987). This action directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(b)(4). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply.

VIII. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements

Dated: October 26, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), (346a), and 371.

2. By revising § 180.473 to read as follows:

§ 180. 473 Glufosinate ammonium; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the herbicide glufosinate ammonium (butonoic acid, 2-amino-4-(hydroxymethylphosphinyl)-, monoammonium salt) and its metabolite, 3-methylphosphinico-propionic acid, expressed as 2-amino-4-(hydroxmethylphosphinyl) butanoic acid equivalents, in or on the following food commodities:

Commodity	Parts per million
Almond hulls	0.50
Apples	0.05
Bananas	0.30
Bananas, pulp	0.20
Cattle, fat	0.05
Cattle, meat	0.05
Cattle, mbyp	0.10
Eggs	0.05
Goats, fat	0.05
Goats, meat	0.05
Goats, mbyp	0.10
Grapes	0.05
Hogs, fat	0.05
Hogs, meat	0.05
Hogs, mbyp	0.10
Horses, fat	0.05
Horses, meat	0.05
Horses, mbyp	0.10
Milk	0.02
Potatoes	0.80
Potato chips	1.60
Potato granules and flakes	2.00
Poultry, fat	0.05
Poultry, meat	0.05
Poultry, mbyp	0.10
Sheep, fat	0.05
Sheep, meat	0.05
Sheep, mbyp	0.10
Tree nuts group	0.10

(2) Tolerances are established for the combined residues of glufosinate ammonium (butanoic acid, 2-ammino-4-(hydroxymethylphosphinyl)-monoammonium salt) and its metabolites, 2-acetamido-4-methylphosphinico-butanoic acid and 3-methylphosphinico-propionic acid, expressed as 2-amino-4-(hydroxymethylphosphinyl) butanoic acid equivalents, in or on the following raw agricultural commodities derived from transgenic field corn and transgenic soybeans and that are tolerant to the herbicide glufosinate ammonium as follows:

Commodity	Parts per million
Aspirated Grain Fractions	25.0
Corn, field, forage	4.0
Corn, field, grain	0.2
Corn, field, stover	6.0
Soybean hulls	5.0
Soybeans	2.0

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for combined residues of the herbicide (butanoic acid, 2-amino-4-(hydroxymethylphosphinyl) -monoamonium salt and its metabolites , 2-acetamido-4-methylphosphinico-butamoic acid and 3-methylphosphinico-propionic acid, expressed as 2-amino-4-(hydroxymethylphosphinyl) butanoic acid equivalents in or on the following raw agricultural commodities derived from transgenic canola and transgenic sweet corn in connection with use of section 18 emergency exemptions granted by EPA. The tolerances will expire and are revoked on the date specified in the following table:

Commodity	Parts per million	Expiration/ Revocation Date
Canola meal	1.1	12/1/99
Canola Seed	0.4	12/1/99
Corn, sweet, forage ..	4.0	12/1/99
Corn, sweet, kernels and cobs with husks removed	4.0	12/1/99
Corn, sweet, stover ..	6.0	12/1/99

(c) *Tolerances with regional restrictions.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

[FR Doc. 99–28887 Filed 11–3–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6468–2]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Joseph Forest Products site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA), Region 10, announces the deletion of the Joseph Forest Products Site from the National Priorities List (NPL). The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Oregon Department of Environmental Quality have determined that no further cleanup under CERCLA is appropriate and that the selected remedy has been protective of human health and the environment.

EFFECTIVE DATE: November 4, 1999.

FOR FURTHER INFORMATION CONTACT: Chip Humphrey, U.S. Environmental Protection Agency, Region 10, 811 SW Sixth Avenue, Portland, Oregon 97204, (503) 326–2678.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Joseph Forest Products, Joseph, Oregon.

A Notice of Intent to Delete for this site was published on August 31, 1999, (64 FR 47478). The closing date for comments was September 30, 1999. The only comment EPA received was a comment letter from the Department of Interior, Fish and Wildlife (the Department) requesting information about the impact of contamination on the Department's trust resources, e.g., migratory birds. EPA is providing the information requested by the Department. EPA believes that the remedial actions performed at the site are protective of trust resources. Further remedial activities are not necessary.

EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund-financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425 of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede Agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: October 21, 1999.

Chuck Clarke,

Regional Administrator, Region 10.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O.12777, 56 FR 54757, 3 CFR 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended by removing—Joseph Forest Products, Joseph, Oregon.

[FR Doc. 99–28543 Filed 11–3–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6468–3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the McCarty's/Pacific Hide & Fur Recycling Co. site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA), Region 10, announces the deletion of the McCarty's/Pacific Hide and Fur Site from the National Priorities List (NPL). The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Idaho Division of Environmental Quality have determined that no further cleanup under CERCLA is appropriate and that the selected remedy has been protective of human health and the environment.

EFFECTIVE DATE: November 4, 1999.

FOR FURTHER INFORMATION CONTACT: Beverly Gaines, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Mail Stop ECL–110, Seattle, Washington 98101, (206) 553–1066.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Pacific Hide & Fur Recycling Co., Pocatello, Idaho.

A Notice of Intent to Delete for this site was published on August 31, 1999, (64 FR 47481). The closing date for comments was September 30, 1999. The only comment EPA received was a comment letter from the Department of Interior, Fish and Wildlife (the Department) requesting information about the impact of contamination on the Department's trust resources, e.g., migratory birds. EPA is providing the information requested by the Department. EPA believes that the remedial actions performed at the site are protective of trust resources. Further remedial activities are not necessary.

EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund-financed remedial

actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425 of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede Agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: October 21, 1999.

Chuck Clarke,

Regional Administrator, Region 10.

For the reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended by removing ''Pacific Hide & Fur Recycling Co., Pocatello, Idaho.''

[FR Doc. 99–28542 Filed 11–3–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 409, 411, 413, and 489

[HCFA–1913–CN]

RIN 0938–AI47

Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of final rule.

SUMMARY: This document corrects a technical error that appeared in the final rule published in the **Federal Register** on July 30, 1999 entitled ''Medicare Program; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities.''

EFFECTIVE DATE: This correction is effective September 28, 1999.

FOR FURTHER INFORMATION CONTACT: Bill Ullman, (410) 786–5667.

SUPPLEMENTARY INFORMATION:

Background

In FR Doc. 99–19478 of July 30, 1999 (64 FR 41644), there was a technical error in the preamble. This error relates to the counting of minutes of therapy provided by a therapy student on the Minimum Data Set (MDS) resident assessment instrument. The correction appears in this document under the heading ''Correction of Errors.''

In the preamble to the final rule (page 41661, column 2) we stated, ''Medicare recognizes the costs associated with approved educational activities as a pass-through'' and referenced regulations at 42 CFR 413.85 that refer to the costs incurred by approved medical education programs. Based on this section of the regulations, we indicated that the minutes of therapy provided by a therapy student may not be recorded on the MDS resident assessment instrument of the beneficiary receiving the service.

However, in this notice we are now retracting our statement with regard to recording of therapy minutes because, contrary to what was indicated in the preamble, § 413.85 (Cost of educational activities) is not applicable to therapy student field experience in the skilled nursing facility (SNF) setting. Except for possible rare instances, SNFs are not approved medical education programs under that section of the regulations. Approved programs, such as a residency program operated by the institution in which it takes place, are actively engaged in the training process and incur costs in that regard. By contrast, SNFs provide only the setting in which the training for these students takes place, not the management of the program itself. Because § 413.85 does not apply, our statement as to the counting of student therapy minutes is also inapplicable.

We are, therefore, retracting the statement in the final rule that the minutes of therapy provided by a therapy student are not to be recorded on the MDS as minutes of therapy received by the beneficiary. Providers should record the minutes of therapy provided by therapy students in accordance with the past practice established under the instructions in the *Long Term Care Resident Assessment Instrument User's Manual* and other HCFA guidelines.

The provision in this correction notice is effective as if it had been included in the document published in the **Federal Register** on July 30, 1999, that is September 28, 1999.

Correction of Errors

In FR Doc. 99–19478 of July 30, 1999 (64 FR 41644), we are making the following correction:

Correction to Preamble

On page 41661, in column 2, line 18, the following sentence is removed: ''Further, none of the minutes of therapy services provided by the students may be recorded on the MDS as minutes of therapy received by the beneficiary.''

(Authority: Section 1888 of the Social Security Act (42 U.S.C. 1395yy))

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 20, 1999.

Brian P. Burns,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 99–28575 Filed 11–3–99; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, 61 and 69

[CC Docket Nos. 96–262, 94–1, 98–157; CCB/CPD File No. 98–63; FCC 99–206]

Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The document announces the effective date of the rules published September 22, 1999, in the Commission's Access Charge Reform proceeding. The Commission revised the rules that govern the provision of certain interstate access services by price cap local exchange carriers. With these revisions, the Commission continues to reform the regulation of interstate access charges to accelerate the development of competition and to ensure that the Commission's regulations do not unduly interfere with the operation of these markets as competition develops.

DATES: The amendments to 47 CFR 1.774, 61.47, 69.709, 69.711, 69.713, and 69.729, published at 64 FR 51258

(September 22, 1999), are effective November 4, 1999.

FOR FURTHER INFORMATION CONTACT: Tamara Preiss, Deputy Division Chief, Common Carrier Bureau, Competitive Pricing Division, (202) 418–1520. For additional information concerning the information collections, contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: On August 27, 1999, the Commission released its Fifth Report and Order in its Access Charge Reform Proceeding, CC Docket No. 96–262, a summary of which was published in the **Federal Register.** See 64 FR 51258, September 22, 1999. 47 CFR 1.774, 61.47, 69.709, 69.711, 69.713, and 69.729, as amended, contain modified information collection requirements. We stated that ''the Commission will publish a document in the **Federal Register** announcing the effective date'' of those rules. The information collections were approved by OMB on October 18 and October 20, 1999. See OMB 3060–0526, 3060–0760, and 3060–0770. By this publication, the Commission announces that these rules are effective November 4, 1999.

List of Subjects

47 CFR Part 0

Organization and functions.

47 CFR Part 1

Administrative practice and procedure, Communications common carriers, Telecommunications.

47 CFR Part 61

Communications common carriers, Telephone.

47 CFR Part 69

Communications common carriers, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–28794 Filed 11–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 90

[FCC 99–85; WT Docket No. 96–86]

Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010

AGENCY: Federal Communications Commission.

ACTION: Final rule; petition for reconsideration.

SUMMARY: This document modifies the provisions governing the newly reallocated public safety spectrum at 764–776 MHz band and 794–806 MHz. The action was taken in response to petitions for reconsideration of a previous Commission order. These modifications are intended to provide the National Coordination Committee (NCC) the flexibility to proceed more efficiently without constraints that may have unnecessarily delayed the completion of its work to address and advise the Commission on certain public safety communication matters. The document also provides new procedures that will promote competition in the market for public safety communications equipment.

DATES: Effective January 3, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room 4–C207, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael Pollak, Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, at (202) 418–0680.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order on Reconsideration* in WT Docket No. 96–86, FCC 99–85, adopted April 26, 1999, and released May 4, 1999. The full text of the *Memorandum Opinion and Order on Reconsideration* is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S.W., Room CY–A257, Washington, D.C. 20554. The full text of the *Memorandum Opinion and Order on Reconsideration* may also be purchased from the Commission's copy contractor, International Transcription Services, 1231 20th Street, N.W., Washington, D.C. 20036, telephone (202) 857–3800, facsimile (202) 857–3805. The full text of the *Memorandum Opinion and Order on Reconsideration* may also be downloaded at: <http://www.fcc.gov/Bureaus/Wireless/Orders/1999/fcc99085.wp>. Alternative formats (computer diskette, large print, audiocassette, and Braille) are available to persons with disabilities by contacting Martha Contee at (202) 418–2555, or at mcontee@fcc.gov.

Synopsis of the Memorandum Opinion and Order on Reconsideration

This *Memorandum Opinion and Order* (*MO&O*) modifies a *First Report and Order and Third Notice of Proposed Rulemaking*, 63 FR 58645 (November 2, 1998) (*First Report and Order*), which established a band plan and adopted service rules in the newly reallocated public safety spectrum at 764–776 MHz and 794–806 MHz, in three respects. First, the Commission is expanding the standards development options available to the National Coordination Committee (NCC) by providing that the NCC may, but is not required to, become accredited by the American National Standards Institute (ANSI). In this regard, we also clarify that the NCC is allowed to make use of and base its recommendations on the standards development work of other existing ANSI-accredited Standards Developers (ASDs). This expands the options available to the NCC for developing the standards it is required to recommend under the provisions of the *First Report and Order.* ANSI states, from its experience, that development and approval of an individual standard as an American National Standard can take from six months to three years and the NCC is required to complete its work within four years. These new options could potentially save time by allowing the NCC to build on standards work already accomplished or by allowing other technical standards development work to begin immediately, under ANSI procedures, without the necessity of waiting for the potentially lengthy process of accreditation of the NCC itself.

Second, the Commission is rescinding the requirement that the fees and terms of license agreements involving proprietary technologies contained in NCC-recommended standards be approved by ANSI. ANSI is not an appropriate entity to approve proprietary technology license terms and fees involved with standards recommended by the NCC because such a role for ANSI would not meet with the approval of the voluntary standards community.

Third, the Commission is implementing a self-policing policy similar to the ANSI patent policy that is structured to adequately protect the rights of both intellectual property right holders and consensus standard users while at the same time encouraging competition. Proprietary technology may be incorporated, however the Commission will require the owner or holder of the rights to proprietary technologies to file a statement with the NCC indicating that they will make such rights available to applicants either without cost or without unfair discrimination.

The changes provided in the *MO&O* will allow the work of the NCC to proceed in a timely fashion, with the flexibility to operate more efficiently,

and without constraints that may have unnecessarily delayed the completion of that work. In addition, this *MO&O* provides new procedures that will promote competition in the market for public safety communications equipment by protecting users of standards recommended by the NCC from unfair discrimination in the licensing of proprietary technology.

Supplemental Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act, 5 U.S.C. 603 (RFA), a Final Regulatory Flexibility Analysis (FRFA) was incorporated in Appendix A of the *First Report and Order* issued in this proceeding.[1] The Commission's Supplemental Final Regulatory Flexibility Analysis (SFRFA) in this Memorandum Opinion and Order on Reconsideration (*Order on Reconsideration*) contains information additional to that contained in the FRFA and is thus limited to matters raised on reconsideration with regard to the *First Report and Order* and addressed in this *Order on Reconsideration*. This SFRFA conforms to the RFA, as amended by the Contract with America Advancement Act of 1996.[2]

I. Need for and Purpose of This Action

In the *Order on Reconsideration,* the Commission responds to the Petition for Reconsideration filed in connection with the *First Report and Order* in this docket by the American National Standards Institute (ANSI and ANSI Petition). The Commission clarifies certain aspects of the *First Report and Order* relating to the operation of the National Coordination Committee (NCC). The NCC was established as provided in the *First Report and Order* pursuant to the provisions of the Federal Advisory Committee Act (FACA) to develop and recommend to the Commission technical standards to be used in public safety interoperability spectrum across the country.

In response to the ANSI Petition, the Commission modifies its initial decision in three respects. First, in order to allow the NCC to make more efficient use of ANSI standards processes, the Commission expands the standards development options available to the NCC by providing that the NCC may, but is not required to, become ANSI-accredited. The Commission also clarifies that the NCC is allowed to make use of and base its recommendations on the standards development work of existing ANSI-Accredited Standards Developers (ASDs). Second, the Commission rescinds the requirement from the *First Report and Order* that the fees and terms of license agreements involving proprietary technologies contained in NCC-recommended standards be approved by ANSI. And third, the Commission revises the process for allowing the incorporation of proprietary technologies into standards recommended by the NCC by requiring the owner or holder of the rights to such technologies to file with the NCC a statement that they will make such rights available to applicants either without cost or without unfair discrimination.

As a result of the Commission's action in the *Order on Reconsideration,* it has addressed the fundamental concerns raised by ANSI in its petition, thus allowing the work of the NCC to proceed in a timely fashion, with the flexibility to operate with increased efficiency, and without the constraints that may have unnecessarily delayed the completion of that work. In addition, the *Order on Reconsideration* provides new procedures for the NCC that will promote competition in the market for public safety communications equipment by protecting users of standards recommended by the NCC from unfair discrimination in the licensing of proprietary technology contained in such standards.

II. Summary of Significant Issues Raised by the Public Comments in Response to the Final Regulatory Flexibility Analysis

No comments were filed in direct response to the FRFA. In the ANSI Petition, and in certain other pleadings, issues were raised that might affect small entities. Specifically, ANSI argued that it had no authority to approve the license terms and fees offered by owners or holders of rights to proprietary technology and that better protection of licensees of this technology could be offered by adoption of the ANSI patent policy. ANSI also asserted that the NCC should not be required to become an ASD to develop its own standards but instead should be able to make use of American National Standards, or preliminary or in-process standards developed by other ASDs. In its comments to the *Second Notice,* FLEWUG supported the concept of requiring that the NCC choose an open standard created by an ANSI-accredited entity.

III. Changes Made to the Proposed and Final Rules

In the *Second NPRM* the Commission proposed to set technical standards for public safety interoperability spectrum. In the *First Report and Order,* the Commission determined instead, to seek to create the NCC to advise the Commission on the standards to be used in such spectrum. The *First Report and Order* required the NCC to become an ASD in order to develop itself the standards that it would recommend to the Commission. This *Order on Reconsideration* rescinds that requirement and allows the NCC to make use of, and base its recommendations on, the work of other ASDs.

In addition, the *Order on Reconsideration* eliminates the requirement that fees and license terms for proprietary technology contained in any NCC-recommended standard be approved by ANSI. Instead, the Commission requires that before the NCC recommends any standard containing proprietary technology, where the technology is the subject of an actual or proposed license agreement, the owner or holder of such proprietary right must file with the NCC a statement that they will make such rights available to applicants either without cost or without unfair discrimination.

IV. Description and Number of Small Entities Affected by Rule Amendment

The changes in the operations of the NCC provided in this *Order on Reconsideration* would principally affect the NCC, ANSI, the public safety and commercial entities who contribute members and/or resources to the NCC, and the persons or entities that hold the rights to proprietary technology that

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[1] *See* Development of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010, WT Docket No. 96/86, *First Report and Order and Third Notice of Proposed Rulemaking* (herein *First Report and Order*). As required by Section 603 of the RFA, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the initial *Notice of Proposed Rulemaking* in WT Docket No. 96–86. *See* Development of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010, WT Docket No. 96–86, *Notice of Proposed Rulemaking,* 61 FR 25185 (May 20, 1996) (*First Notice*). The proposals in the *First Notice* were refined and modified in a *Second Notice of Proposed Rulemaking,* 62 FR 60199 (November 7, 1997) in this docket, into which a second IFRA was incorporated. *See* Development of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010, WT Docket No. 96–86, *Second Notice of Proposed Rulemaking,* (*Second Notice*). The Commission sought written comment on the proposals in the *Second Notice* including the IRFA. The FRFA in the First Report and *Order* addressed issued raised by commenters that might affect small entities.

[2] Public Law 104–121, 110 Stat. 846 (1996) (CWAAA). Title II of the Contract with America Act is entitled ''The Small Regulatory Enforcement Fairness Act of 1996'' (SBREFA), and is codified at 5 U.S.C. 601–611.

might be included in an NCC-recommended standard. The public safety equipment manufacturers who might enter into agreements to use such standards in the construction of public safety communications equipment and the government and non-government entities that will purchase such equipment are only indirectly affected by the *Order on Reconsideration*.

On January 29, 1999, the Commission released a Public Notice soliciting nominations for membership. Membership is open to any interested member of the public safety communications community, including representatives of federal, state and local government entity radio users, licensees and organizations, manufacturers, consulting firms, frequency coordinators and trade associations. A similar open membership structure was adopted for the most recent FCC-appointed federal advisory committee for public safety matters. This committee, formed in 1996 and called the Public Safety Wireless Advisory Committee (PSWAC), attracted approximately 500 members. It is anticipated that the NCC will have a similar number of members.

The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [3] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[4] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[5] A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' [6] Nationwide, as of 1992, there were approximately 275,801 small organizations.[7] ANSI has fewer than 300 employees, is independently owned and operated and we conclude that it is a small organization. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' [8] As of 1992, there were approximately 85,006 such jurisdictions in the United States.[9] This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000.[10] The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (91 percent) are small entities. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by the proposed rules, if adopted. As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services.[11] Spectrum in the 700 MHz band for public safety services is governed by 47 U.S.C. 337. Non-Federal governmental entities as well as private businesses are licensees for these services.

We anticipate that at least six radio equipment manufacturers might be affected by our decision in this *Order on Reconsideration*. According to the SBA's regulations, a communications equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern.[12] Census Bureau data indicate that there are 858 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would therefore be classified as small entities.[13] We do not have information that indicates how many of the six radio equipment manufacturers associated with this proceeding are among these 778 firms. However, Motorola and Ericsson, firms that control approximately ninety-five percent of the public safety communications equipment market, are major, nationwide radio equipment manufacturers, and, thus, we conclude that these manufacturers would not qualify as small businesses.

V. Summary of Projected Reporting, Recordkeeping, and Other Compliance Requirements

The compliance requirements pertaining to the issues addressed in the *Order on Reconsideration* that were adopted in the *First Report and Order* include the provision that the NCC was to become accredited by ANSI as an ASD. Further, the *First Report and Order* required that no proprietary data was to be incorporated in any standard ultimately recommended by the NCC unless the proprietary data was made available on a fair, reasonable, unbiased and non-discriminatory basis, with license fees approved by ANSI and on terms and conditions set by that standards body. The *Order on Reconsideration* eliminates the requirement that the NCC become NCC accredited and the requirement that license fees terms and conditions be approved by ANSI. The *Order on Reconsideration* requires that before any standard may the owner or holder of the any rights to proprietary technologies that are incorporated into standards recommended by the NCC, where such owner or holder has licensed or announced and intention to license such proprietary technology, to file with the NCC a statement that they will make such rights available to applicants either without cost or without unfair discrimination.

VI. Steps Taken To Minimize the Economic Impact on Small Entities

The Commission has reduced the impact on small entities of the provisions governing the operations of the NCC by eliminating the requirement

[3] *See* 5 U.S.C. 601(6).

[4] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' 5 U.S.C. 601(3).

[5] Small Business Act, 15 U.S.C. 632 (1996).

[6] 5 U.S.C. 601(4).

[7] 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

[8] 5 U.S.C. 601(5).

[9] U.S. Dept. of Commerce, Bureau of the Census, ''1992 Census of Governments.''

[10] *Id.*

[11] *See* Subparts A and B of part 90 of the Commissions's Rules, 47 CFR 90.1–90.22. Police licensees include 26,608 licensees that serve state, county, and municipal enforcement through telephony (voice), telegraphy (code) and teletype and facsimile (printed material). Fire licensees include 22,677 licensees comprised of private volunteer or professional fire companies as well as units under governmental control. Public Safety Radio Pool licensees also include 40,512 licensees that are state, county, or municipal entities that use radio for official purposes. There are also 7,325 forestry service licensees comprised of licensees from state departments of conservation and private forest organizations who set up communications networks among fire lookout towers and ground crews. The 9,480 state and local governments are highway maintenance licensees that provide emergency and routine communications to aid other public safety services to keep main roads safe for vehicular traffic. Emergency medical licensees (1,460) use these channels for emergency medical service communications related to the delivery of emergency medical treatment. Another 19,478 licensees include medical services, rescue organizations, veterinarians, handicapped persons, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facilities, and emergency repair of public communications facilities.

[12] 13 CFR 121.201, (SIC) Code 3663.

[13] U.S. Dept. of Commerce, *1992 Census of Transportation, Communications and Utilities* (issued May 1995), SIC category 3663.

that the NCC become ANSI-certified as an ASD and by eliminating the requirement that all fees, terms and conditions of licenses for proprietary technology contained in any NCC-recommended standard be approved by ANSI. In addition, the Commission has adopted on reconsideration an alternative procedure to protect users of NCC-recommended standards from unfair discrimination. The requirement that owners or holders of rights to proprietary technology contained in NCC-recommended standards that seek to license such rights must file statements with the NCC will burden a handful of entities that may or may not be small entities. In contrast, the requirement will benefit thousands of small governmental jurisdictions and their agencies by protecting their suppliers from unfair discrimination in the acquisition of technologies, and by encouraging greater competition in the public safety communications equipment market.

VII. Significant Alternatives Considered and Rejected

The alternative approaches contained in the *First Report and Order* were considered and rejected as too burdensome, unnecessarily restrictive, or inefficient, thus leading the Commission to eliminate the above-described compliance requirements on ANSI and the NCC. With regard to a mechanism to protect users of NCC-recommended standards from unfair discrimination in the licensing of proprietary technology, the alternative of providing no protection was considered and deemed anti-competitive, unnecessarily expensive and insufficiently responsive to the communications needs of the large and small members of public safety community that the Commission is bound by law to support. The chosen mechanism of requiring owners and holders of rights to proprietary technology to agree with their licensees to make the technologies available, either without cost or on terms that are free from unfair discrimination, and to evidence that agreement by filing a statement to that effect with the NCC, was determined to be the least expensive and burdensome alternative available. Moreover, given its probable effect of encouraging competition in the relevant equipment market, this mechanism was determined to generate the most favorable ratio of cost to benefit in the overall public safety communications community.

Report to Congress

The Commission shall send a copy of this Supplemental Final Regulatory Flexibility Analysis, along with the *Order on Reconsideration*, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). A copy of this Supplemental Final Regulatory Flexibility Analysis will also be published in the **Federal Register**.

List of Subjects

47 CFR Part 2

Communications equipment, Radio.

47 CFR Part 90

Administrative practice and procedure, Communications equipment, Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–28549 Filed 11–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[CC Docket No. 94–102; FCC 99–245]

Wireless Radio Services; Compatibility With Enhanced 911 Emergency Calling Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document revises rules applicable to wireless carriers to permit the use of handset-based solutions, or hybrid solutions that require changes both to handsets and wireless networks, in providing caller location information as part of Enhanced 911 (E911) services. These actions are intended to encourage the deployment of the best location technology for each area being served, promote competition in E911 location technology, and speed implementation of E911.

DATES: Effective March 3, 2000, except for § 20.18(i), which contains an information collection requirement that has not been approved by the Office of Management and Budget. The FCC will publish a document in the **Federal Register** announcing the effective date for that section. Public comments on the information collection are due January 3, 2000.

FOR FURTHER INFORMATION CONTACT: Legal Information: Daniel Grosh, 202–418–1310; Technical Information: Martin Liebman, 202–418–1310. For further information concerning the information collection contained in this Report and Order, contact Les Smith, Federal Communications Commission, Room 1A–804, 445 12th Street, SW, Washington, DC 20054, or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Third Report and Order* (Third R&O) in CC Docket No. 94–102; FCC 99–245, adopted September 15, 1999, and released October 6, 1999. The complete text of this Third R&O is available for inspection and copying during normal business hours in the FCC Reference Information Center, Courtyard Level, 445 12th Street, SW, Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services (ITS, Inc.), CY–B400, 445 12th Street, SW, Washington, DC.

Synopsis of the Third Report and Order

1. The Commission adopts a Third Report and Order (Third R&O) in CC Docket No. 94–102, regarding implementation of Enhanced 911 (E911) emergency calling systems. Specifically, in the Third R&O, the Commission takes several steps to enable handset-based methods of providing Automatic Location Identification (ALI) to compete in a reasonable way with network-based solutions in meeting the Commission's E911 Phase II requirements. The new rules will benefit both wireless callers and public safety entities by providing accurate and efficient automatic caller location information in emergencies.

2. The rule change was needed because, when the Commission originally adopted its Phase II rules in 1996, it was believed that location information could only be effectively provided by technologies based in or overlaid on carrier networks, using approaches such as triangulation of the handset's signal. Since that time, advancements in location technologies that employ new or upgraded handsets have demonstrated important progress. While no single solution appears to be perfect in all situations, each type of solution has its advantages and limitations and each may be improved or combined with other technologies in the future to support further improvements in 911 service.

3. The Commission's original rules, adopted in the Report and Order and Further Notice of Proposed Rulemaking (61 FR 40348, August 2, 1996), as a practical matter, only permitted network-based solutions to meet the Commission's Phase II requirements

because they required that ALI be provided for all 911 calls in a requesting Public Safety Answering Point's (PSAP's) area as of a fixed date. In order to enable handset-based solutions to be a viable competitor for initial deployment under Phase II, the Commission decided to allow for a phase-in of new or upgraded handsets. To offset the potential delay in full availability of Phase II location information that may be caused by this action, the Commission imposed a higher accuracy standard on handset-based solutions, required handset deployment to begin earlier than the current October 1, 2001, deployment date, and required that this deployment occur, for carriers deploying a handset-based solution, regardless of whether a PSAP has requested Phase II.

4. As a result, in the Third R&O, the Commission mandates that wireless carriers employing a technology that requires new, modified or upgraded handsets must comply with the following deployment and penetration requirements, without respect to whether any PSAP has requested Phase II deployment:

(1) Begin selling ALI-capable handsets no later than March 1, 2001;

(2) Ensure that at least 50 percent of all new handsets activated are ALI-capable no later than October 1, 2001; and

(3) Ensure that at least 95 percent of all new digital handsets activated are ALI-capable no later than October 1, 2002.

5. Once a PSAP request is received, a carrier deploying a handset-based solution is required to satisfy the following requirements, in the area served by the PSAP:

(1) Within six months or by October 1, 2001, whichever is later:

(a) Ensure that 100 percent of all new handsets activated are ALI-capable;

(b) Implement any network upgrades or other steps necessary to locate handsets; and,

(c) Begin delivering to the PSAP location information that satisfies Phase II requirements.

(2) Within two years or by December 31, 2004, whichever is later, undertake reasonable efforts to ensure that all handsets used by its subscribers are ALI-capable.

6. For roamers and other callers without ALI-capable handsets, carriers must support Phase I ALI and other available best practice methods of providing the location of the handset to the PSAP. In addition, to be allowable under the rules, an ALI technology that requires new, modified, or upgraded handsets must conform to general standards and be interoperable, allowing roaming among carriers employing handset-based location technologies.

7. For carriers employing network-based location technologies, the Third R&O modifies the applicable deployment schedule to require the carrier to deploy Phase II to 50 percent of callers within 6 months of a PSAP request and to 100 percent of callers within 18 months of such a request. The Commission determined that such a phase-in for network-based solutions was reasonable in recognition of the likelihood that installing equipment throughout a carrier's network will often require more time than the six months previously allowed under the rules.

8. The Third R&O also imposes the following revised standards for Phase II location accuracy and reliability: (1) For network-based solutions: 100 meters for 67 percent of calls, 300 meters for 95 percent of calls; and (2) for handset-based solutions: 50 meters for 67 percent of calls, 150 meters for 95 percent of calls. The Commission decided to replace the Root Mean Square (RMS) reliability methodology with this more workable and understandable standard.

9. Additionally, the Third R&O directs wireless carriers to report to the Commission their plans for implementing E911 Phase II, including the technology they plan to use to provide caller location, by October 1, 2000. This report shall provide information to permit planning for Phase II implementation by public safety organizations, equipment manufacturers, local exchange carriers, and the Commission, in order to support Phase II deployment by October 1, 2001.

Paperwork Reduction Act of 1995 Analysis

10. The actions contained in this Third R&O have been analyzed with respect to the Paperwork Reduction Act of 1995 and found to impose a new reporting requirement or burden on the public. Implementation of this new reporting requirement will be subject to approval by the Office of Management and Budget, as prescribed by the Act. The new paperwork requirement contained in the Third Report and Order will go into effect March 3, 2000, dependent on OMB approval.

Final Regulatory Flexibility Analysis

11. As required by the Regulatory Flexibility Act, 5 U.S.C. 603 (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the Further Notice of Proposed Rule Making (Further Notice) issued in this proceeding, 61 FR 40348, August 2, 1996. The Commission sought written public comments in the Further Notice, including comment on the IRFA. The Commission's Final Regulatory Flexibility Analysis (FRFA) in this Third R&O conforms to the RFA, as amended by the Contract With America Advancement Act of 1996 (CWAAA), Pub. L. 104–121, 110 Stat. 847 (1996).[1]

(1) Need for and Purpose of This Action

12. The Commission's current rules, as a practical matter, only permit network-based solutions to meet Phase II requirements. The Third R&O revises the Commission's 911 rules to permit handset-based solutions, or hybrid solutions that require changes both to handsets and wireless networks, to compete in a reasonable way with the network-based solutions in providing automatic location identification (ALI). The Third R&O is therefore intended to ensure that E911 regulation reflects the most current technological advances possible and accordingly the most effective and responsive E911 service possible.

(2) Summary of Significant Issues Raised by the Public in Response to the IRFA

13. No comments were submitted in direct response to the IRFA. However, the Commission made every effort to gather as much data as possible and to solicit public comment on the issues resolved in the Third R&O. (*See,* for example, 64 FR 31530, June 11, 1999.) For example, on June 28, 1999, the Commission sponsored a roundtable discussion of technical issues involved in implementing the performance and accuracy standards for E911 Phase II ALI technologies. Roundtable participants included representatives of network-based solution technologies, handset-based technologies, manufacturers, wireless carriers, and public safety organizations.

(3) Description and Estimates of the Number of Entities Affected by This Order on Reconsideration

14. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted (5 U.S.C. 603(b)(3)). The RFA generally defines the term ''small entity'' as having the same meaning as the term ''small business'' (5 U.S.C. 602(6)). In addition, the term ''small business'' has the same

[1] Subtitle II of the CWAAA is ''The Small Business Regulatory Enforcement Fairness Act of 1996'' (SBREFA), codified at 5 U.S.C. 601 *et. seq.*

meaning as the term ''small business concern'' under the Small Business Act (5 U.S.C. 601(6)). A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA) (15 U.S.C. 632).

15. *SMR Licensees.* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small business'' for purposes of auctioning 900 Mhz SMR licenses (60 FR 48913, September 21, 1995), 800 MHz SMR licenses for the upper 200 channels (61 FR 6212, February 16, 1996), and 800 MHz SMR licenses for the lower 230 channels (62 FR 41190, July 31, 1997) as a firm that has had average annual gross revenues of $15 million or less in the three preceding calendar years. This small business size standard for the 800 MHz and 900 MHz auctions has been approved by the SBA. The rule amendments adopted in this Third R&O affect geographic and wide area SMR providers if they offer real-time, two-way PSN-interconnected voice service utilizing an in-network switching facility.

16. Sixty winning bidders for geographic area licenses in the 900 MHz SMR band qualified as small business under the $15 million size standard. It is not possible to determine which of these licensees intend to offer real-time, two-way PSN-interconnected voice or data service utilizing an in-network switching facility. Therefore, the Commission concludes that the number of 900 MHz SMR geographic area licensees affected by this rule modification is at least 60.

17. The auction of the 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz SMR band qualified as small businesses under the $15 million size standard. It is not possible to determine which of these licensees intend to offer real-time, two-way PSN-interconnected voice or data service utilizing an in-network switching facility. Therefore, the Commission concludes that the number of 800 MHz SMR geographic area licensees for the upper 200 channels affected by this rule modification is at least ten.

18. The Commission has determined that 3,325 geographic area licenses will be awarded in the 800 MHz SMR auction for the lower 230 channels. Because the auction of these licenses has not yet been conducted, there is no basis to estimate how many winning bidders will qualify as small businesses under the Commission's $15 million size standard. Nor is it possible to determine which of these licensees will offer real-time, two-way PSN-interconnected voice or data service utilizing an in-network switching facility. Therefore, the Commission concludes that the number of 800 MHz SMR geographic area licensees for the lower 230 channels that may ultimately be affected by this rule modification is at least 3,325.

19. With respect to licensees operating under extended implementation authorizations, approximately 6,800 such firms provide 800 MHz or 900 MHz SMR service. However, it is uncertain how many of these intend to offer real-time, two-way PSN-interconnected voice or data service utilizing an in-network switching facility or which of this subset qualify as small businesses under the $15 million size standard. The Commission assumed, for purposes of the FRFA, that all of the remaining existing authorizations are held by licensees qualifying as small businesses under the $15 million size standard. Of these, the Commission assumes, for purposes of its evaluations and conclusions in this FRFA, that all of these licensees intend to offer real-time, two-way PSN-interconnected voice or data service utilizing an in-network switching facility. Therefore, the Commission concludes that the number of SMR licensees operating in the 800 MHz and 900 MHz bands under extended implementation authorizations that may be affected by this rule modification is up to 6,800.

20. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.[2] Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, the Commission notes that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses. In addition, according to the most recent *Carrier Locator: Interstate Service Providers* data, 732 carriers reported that they were engaged in the provision of either cellular service or Personal Communications Service (PCS) services, which are placed together in the data.[3] The Commission has no data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. Consequently, it estimates that there are fewer than 732 small cellular service carriers that may be affected by the policies adopted in this Third R&O.

21. *Broadband Personal Communications Service* (PCS). The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years. (*See* 61 FR 33859, July 1, 1996; *see also* 47 CFR 24.720(b).) For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. Based on this information, the Commission concludes that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks, for a total of 183 small entity PCS providers as defined by the SBA and the Commission's auction rules.

[2] U.S. Department of Commence, 1992 Census of Transportation, Communications, and Utilities (issued May 1995), Series UC92 S1, at Table 5, SIC Code 4812.

[3] Carrier Locator: Interstate Service Providers, Carrier Providers, Figure, Figure 1 (Jan. 1999). The most reliable source of current information regarding the total numbers of common carrier and related providers nationwide, including the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its ''Carrier Locator'' report, derived from filings made in connection with the Telecommunications Relay Service (TRS).

22. *Providers of Location Technologies.* The Commission's requirement that wireless carriers provide the location of wireless 911 callers has created a business opportunity for companies that are able to develop and provide the technology to meet this obligation. Several apparently small location technology companies have participated in this proceeding, for example, by presenting their technologies and filing comments. The Commission estimates that as many as 20 small companies are involved in developing location technologies that may be affected by these rules, either directly in the case of handset-based technology companies or largely indirectly in the case of network-based technology companies.

(4) Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

23. Among the rules enacted by the Third R&O is a requirement that wireless carriers report their plans for implementing E911 Phase II, including the technology they plan to use to provide caller location, by October 1, 2000. This report shall provide information to permit planning for Phase II implementation by public safety organizations, equipment manufacturers, local exchange carriers, and the Commission in order to support Phase II deployment by October 1, 2001. This reporting requirement is discussed in Section IV.E of the full text of the Third R&O.

24. With respect to other compliance requirements, the Third R&O adopts rules that: (1) Allow a phased-in implementation schedule for carriers employing a handset-based solution; (2) establish a higher accuracy standard for handset-based solutions than required for network-based solutions; (3) require that handset deployment begin earlier than the current October 1, 2001, deployment date and that this deployment occur, for wireless carriers employing a handset solution, regardless of whether the PSAP has requested Phase II; (4) require that wireless carriers employing handset-based solutions take additional steps to provide location information for roamers and callers with non-ALI capable handsets; (5) require that carriers take action to ensure that any phase-in for handset-based solutions is brief and complete; (6) replace the Root Mean Square (RMS) reliability methodology with a more workable and understandable standard; and (7) allow wireless carriers employing network-based location technology to reach 50 percent coverage within six months of a PSAP request for Phase II service and 100 percent coverage eighteen months after a PSAP request.

(5) Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

25. The Commission is taking this action to provide all affected licensees, regardless of size, with the flexibility to comply with the E911 Phase II regulations in the way that they feel best takes advantage of available technology. The rules adopted in the Third R&O will allow the use of handset-based solutions, or hybrid solutions, as well as network-based solutions for providing location information. The phased-in approach to implementation of handset-based solutions provided in the Third R&O may potentially delay the full availability of Phase II location information for callers and PSAPs. To offset the effects of a delay on public safety, the Third R&O requires that handset-based solutions be held to a higher accuracy standard. This will help locate callers more quickly and assist PSAPs in handling 911 calls more efficiently. The Third R&O also requires that handset deployment begin earlier than the current October 1, 2001, deployment date and that this deployment occur for carriers employing a handset solution, regardless of whether the PSAP has requested Phase II.

26. These steps should promote the rapid rollout of handset-based solutions through normal handset turnover and growth. While it does not appear that any single network-based or handset-based location technology is perfect in all situations or for all wireless transmission technologies, both network and handset-based solutions may provide location information by 2001 that meets or exceeds the Commission's accuracy requirements. The Commission is aware that each type of solution has its advantages and limitations, and each may also be improved or combined with other technologies in the future to support further improvements in 911 service and public safety. The Commission is not recommending one method over another, and is aware of the limitations apparent in handset-based solutions; however, the Commission concluded that any disadvantages of actions in the Third R&O are far outweighed by the possible benefits.

27. All of the actions taken in the Third R&O, as described above, may have a certain amount of negative impact on affected entities, but the Commission expects that few, if any, small entities will feel an impact from its actions. Providers of network-based technologies may be affected indirectly as they confront more vigorous competition from companies offering handset-based and hybrid solutions, but will also benefit directly from rule revisions that allow more time to install network-based location equipment, a more workable accuracy standard, and a best practice obligation for carriers that may encourage the use of network-based technologies to supplement handset-based technologies. The limited negative affects of the Third R&O are offset by the flexibility that will be provided in allowing use of handset-based technology in complying with E911 regulations. This flexibility should be especially beneficial to small rural wireless carriers. Taken together, the Commission expects that this revised program for Phase II deployment will encourage the deployment of the best and most efficient technologies, speed actual implementation of E911, and promote competition in E911 location technology and service. The Commission also expects that its actions in the Third R&O will provide the clear guidance needed to enable the many necessary participants in wireless E911 deployment to implement Phase II as soon as possible.

(6) Report to Congress

28. The Commission shall send a copy of this Third R&O, including a copy of this Final Regulatory Flexibility Analysis, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, *see* 5 U.S.C. 801(a)(1)(A). A copy of this FRFA will also be published in the **Federal Register**. *See* 5 U.S.C. 604(b).

Ordering Clauses

29. Part 20 of the Commission's Rules is accordingly amended.

30. The rule amendments made by this Third R&O shall become effective March 3, 2000, except for § 20.18(i), which contains an information collection requirement that has not been approved by the Office of Management and Budget. The FCC will publish a document in the **Federal Register** announcing the effective date for that section.

32. The Office of Public Affairs, Reference Operations Division, shall send a copy of this Third R&O, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

33. All petitions for waiver of the Commission's wireless E911 rules submitted in response to the Wireless Telecommunications Bureau's *Waiver*

Public Notice are dismissed as moot in light of the rule changes adopted in this Third R&O.

34. The Petition to Modify the wireless 911 rules filed by the Wireless Consumers Alliance, Inc. is denied.

Paperwork Reduction Act

The Third R&O contains a new information collection. As part of its continuing effort to reduce paperwork burdens, the Commission invites the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this Third R&O, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due January 3, 2000. OMB comments are due March 3, 2000. Comments should address: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (2) the accuracy of the Commission's burden estimates; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained in this Order should be submitted to Les Smith, Federal Communications Commission, Room 1A–804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to lesmith@fcc.gov, and to Virginia A. Huth, OMB Desk Officer, 10236 NEOB, 725—17th Street, NW., Washington, DC 20503, or via the Internet to vhuth@omb.eop.gov.

OMB Approval Number: N./A.

Title: Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Third Report and Order

Form No.: N./A.

Type of Review: New information collection

Respondents: Business or other for profit

Number of Respondents: 4,000

Estimated Time Per Response: 1 hour

Total Annual Cost Burden: $400,000 for the one-time initial filing. In addition, the Commission estimates that each licensee will file one additional report, reporting any changes in their plans for implementing E911 Phase II, for an additional $400,000 and a total burden of $800,000.

Total Annual Burden: 1 burden hour for the initial filing, and an additional hour for any additional reports, for an estimated total burden hour of 2.

Needs and Uses: The information required to be reported to the Commission by wireless carriers will provide PSAPs, providers of location technology, investors, manufacturers, local exchange carriers, and the Commission with valuable information necessary for preparing for full Phase II E911 implementation. The advance reports will provide helpful, if not essential, information for coordinating carrier plans with those of manufacturers and PSAPs. Also, they will assist the Commission's efforts to monitor Phase II developments and to take necessary actions to maintain the Phase II implementation schedule.

List of Subjects in 47 CFR Part 20

Communications common carrier, Communications equipment, Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 20 as follows:

PART 20—COMMERCIAL MOBILE RADIO SERVICES

1. The authority citation for part 20 continues to read as follows:

Authority: 47 U.S.C. 154, 160, 251–254, 303, and 332 unless otherwise noted.

2. Section 20.3 is amended by adding the following definitions in alphabetical order:

§ 20.3 Definitions.

* * * * *

Handset-based location technology. A method of providing the location of wireless 911 callers that requires the use of special location-determining hardware and/or software in a portable or mobile phone. Handset-based location technology may also employ additional location-determining hardware and/or software in the CMRS network and/or another fixed infrastructure.

* * * * *

Location-capable handsets. Portable or mobile phones that contain special location-determining hardware and/or software, which is used by a licensee to locate 911 calls.

* * * * *

Network-based Location Technology. A method of providing the location of wireless 911 callers that employs hardware and/or software in the CMRS network and/or another fixed infrastructure, and does not require the use of special location-determining hardware and/or software in the caller's portable or mobile phone.

* * * * *

3. Section 20.18 is amended by revising paragraph (e), redesignating paragraphs (f) and (g) as (j) and (k) and adding new paragraphs (f), (g), (h), and (i) to read as follows:

§ 20.18 911 Service.

* * * * *

(e) *Phase II enhanced 911 service.* Licensees subject to this section must provide to the designated Public Safety Answering Point Phase II enhanced 911 service, *i.e.*, the location of all 911 calls by longitude and latitude in conformance with Phase II accuracy requirements (*see* paragraph (h) of this section).

(f) *Phase-in for network-based location technologies.* Licensees subject to this section who employ a network-based location technology shall provide Phase II 911 enhanced service to at least 50 percent of their coverage area or 50 percent of their population beginning October 1, 2001, or within 6 months of a PSAP request, whichever is later; and to 100 percent of their coverage area or 100 percent of their population within 18 months of such a request or by October 1, 2002, whichever is later.

(g) *Phase-in for handset-based location technologies.* Licensees subject to this section who employ a handset-based location technology may phase in deployment of Phase II enhanced 911 service, subject to the following requirements:

(1) Without respect to any PSAP request for deployment of Phase II 911 enhanced service, the licensee shall:

(i) Begin selling and activating location-capable handsets no later than March 1, 2001;

(ii) Ensure that at least 50 percent of all new handsets activated are location-capable no later than October 1, 2001; and

(iii) Ensure that at least 95 percent of all new digital handsets activated are location-capable no later than October 1, 2002.

(2) Once a PSAP request is received, the licensee shall, in the area served by the PSAP:

(i) Within six months or by October 1, 2001, whichever is later:

(A) Ensure that 100 percent of all new handsets activated are location-capable;

(B) Install any hardware and/or software in the CMRS network and/or other fixed infrastructure, as needed, to enable the provision of Phase II enhanced 911 service; and

(C) Begin delivering Phase II enhanced 911 service to the PSAP.

(ii) Within two years or by December 31, 2004, whichever is later, undertake reasonable efforts to achieve 100 percent penetration of location-capable handsets among its subscribers.

(3) For all 911 calls from portable or mobile phones that do not contain the hardware and/or software needed to enable the licensee to provide Phase II enhanced 911 service, the licensee shall, after a PSAP request is received, support, in the area served by the PSAP, Phase I location for 911 calls or other available best practice method of providing the location of the portable or mobile phone to the PSAP.

(4) Licensees employing handset-based location technologies shall ensure that location-capable portable or mobile phones shall conform to industry interoperability standards designed to enable the location of such phones by multiple licensees.

(h) *Phase II accuracy.* Licensees subject to this section shall comply with the following standards for Phase II location accuracy and reliability:

(1) For network-based technologies: 100 meters for 67 percent of calls, 300 meters for 95 percent of calls;

(2) For handset-based technologies: 50 meters for 67 percent of calls, 150 meters for 95 percent of calls.

(3) For the remaining 5 percent of calls, location attempts must be made and a location estimate for each call must be provided to the appropriate PSAP.

(i) *Reports on phase II plans.* Licensees subject to this section shall report to the Commission their plans for implementing Phase II enhanced 911 service, including the location-determination technology they plan to employ and the procedure they intend to use to verify conformance with Phase II accuracy requirements, by October 1, 2000. Licensees are required to update these plans within thirty days of the adoption of any change. These reports and updates may be filed electronically in a manner to be designated by the Commission.

[FR Doc. 99–28483 Filed 11–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–2378; MM Docket No. 98–123; RM–9291]

Radio Broadcasting Services; Marysville and Hilliard, OH

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Citicasters Co., reallots Channel 289A from Marysville to Hilliard, Ohio, as the community's first local aural service, and modifies the license of Station WZAZ–FM accordingly. *See* 63 FR 49252, July 28, 1998. Channel 289A can be allotted to Hilliard in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.8 kilometers (1.8 miles) northeast, at coordinates 40–03–26 North Latitude and 83–08–36 West Longitude, to accommodate petitioner's desired transmitter site. Canadian concurrence in the allotment has been obtained since Hilliard is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

DATE: Effective December 13, 1999.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–123, adopted October 20, 1999, and released October 29, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Ohio, is amended by removing Marysville, Channel 289A and adding Hilliard, Channel 289A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–28852 Filed 11–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 98–61; FCC 99–13]

1998 Biennial Regulatory Review—''Annual Report of Cable Television Systems,'' Form 325

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Commission's amendments to 47 CFR 76.403 which contain information collection requirements became effective on July 1, 1999. These amendments which were published in the **Federal Register** on May 25, 1999 relate to revising and streamlining the Form 325, ''Annual Report of Cable Television Systems,'' which solicits basic operational information from cable television systems.

DATES: The amendments to 47 CFR 76.403 published at 64 FR 28106 (May 25, 1999) became effective on July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Karen Kosar, Consumer Protection and Competition Division, Cable Services Bureau at (202) 418–1053.

SUPPLEMENTARY INFORMATION:

1. On March 31, 1999, the Commission released a Report and Order regarding the Form 325, a summary of which was published in the **Federal Register.** See 64 FR 28106 (May 25, 1999). The Report and Order modifies and streamlines the Form 325 and reduces the number of cable system operators required to file the form. Because the rule imposed modified information collection requirements, the amendments to 47 CFR 76.403 could not become effective until approved by the Office of Management and Budget (''OMB''). OMB approved the rule changes on July 1, 1999.

2. The **Federal Register** summary stated that the Commission would publish a document announcing the

effective date of the rule changes requiring OMB approval. The amendments to 47 CFR 76.403 became effective July 1, 1999. This publication satisfies the statement that the Commission would publish a document announcing the effective date of the rule changes requiring OMB approval.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–28662 Filed 11–3–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 990722200–9292–02; I.D. 060899D]

RIN 0648–AG88

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coral Reef Resources of Puerto Rico and the U.S. Virgin Islands; Amendment 1

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 1 to the Fishery Management Plan for Corals and Reef Associated Plants and Invertebrates of Puerto Rico and the US Virgin Islands (FMP). The rule establishes a marine conservation district (MCD) in the exclusive economic zone in an area known as the Hind Bank, southwest of St. Thomas, U.S. Virgin Islands (USVI). Within the MCD, fishing for any species and anchoring by fishing vessels is prohibited. The intended effect is to protect important marine resources.

DATES: This final rule is effective December 6, 1999.

ADDRESSES: Copies of the final regulatory flexibility analysis (FRFA) for this final rule may be obtained from the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Copies of Amendment 1, which includes a regulatory impact review (RIR), a initial regulatory flexibility analysis (IRFA), and a final supplemental environmental impact statement (FSEIS), may be obtained from the Caribbean Fishery Management Council (Council), 268 Munoz Rivera Avenue, Suite 1108, San Juan, PR 00918–2577; telephone 787–766–5926.

FOR FURTHER INFORMATION CONTACT: Michael Barnette, Southeast Regional Office, NMFS; telephone 727–570–5305.

SUPPLEMENTARY INFORMATION: The fishery for coral reef resources off Puerto Rico and the US Virgin Islands is managed under the FMP prepared by the Caribbean Fishery Management Council (Council) and approved and implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On June 21, 1999, NMFS announced the availability of Amendment 1 and requested comments on the amendment through August 20, 1999 (64 FR 33041). On August 3, 1999, NMFS published a proposed rule to implement the measures in Amendment 1 and requested comments on the rule through September 17, 1999 (64 FR 42068). The background and rationale for the measures in the amendment and proposed rule are contained in the preamble to the proposed rule and are not repeated here. On September 17, 1999, after considering the comments on the amendment and proposed rule received through August 20, 1999, NMFS approved Amendment 1.

Comments and Responses

NMFS received three comments supporting Amendment 1 and the proposed rule. One commenter stated in two separate comments that the Hind Bank MCD: Will provide valuable protection to spawning aggregations of depleted reef fish and offer protection to essential fish habitat from physical damage from fishing and anchoring gear; more than meets the FMP's conservation-related criteria for establishing marine conservation districts; will make the area involved off limits to fishing gear and to anchoring on coral so that further damage will be prevented and the habitat given a chance to recover; will protect depleted snappers and groupers and provide the only existing federal replenishment refuge off St. Thomas to help rebuild these stocks; and will offer full protection for red hind spawning aggregations with the eventual result of there being more red hind outside the no-take zone. The third commenter, the U.S. Fish and Wildlife Service, indicated that it supports Amendment 1 as necessary to achieve habitat management benefits to allow the Council and the Territory to meet fishery population protection and recovery goals. NMFS concurs with these comments and has approved Amendment 1 and is implementing it by this rule.

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

The Regional Administrator, Southeast Region, NMFS, with the concurrence of the Assistant Administrator for Fisheries, NOAA, determined that Amendment 1 is necessary for the conservation and management of the fisheries and coral resources of the USVI. Furthermore, Amendment 1 was determined to be consistent with the Magnuson-Stevens Act and other applicable law.

A FSEIS was prepared for Amendment 1 and filed with the Environmental Protection Agency. A notice of FSEIS availability was published on July 30, 1999 (64 FR 41420).

NMFS prepared an FRFA for this final rule implementing Amendment 1. The FRFA was based on the IRFA, which in turn was based on the Council's RIR supporting Amendment 1. No public comments on the IRFA were received. A summary of the FRFA follows.

The coral habitats in the US Caribbean are considered to be limited and have been seriously degraded, resulting in negative impacts on the fishery resources and the surrounding ecosystem. The MCD is established to protect the coral habitat and the ecosystem and to evaluate the effectiveness of a reserve in increasing the level of fish stocks surrounding the reserve. Relevant FMP conservation and management objectives are: (1) To conserve and protect the species in the fishery management unit; (2) To minimize adverse human impacts on the resources; and (3) To provide for special management of reef and sea grass habitats of particular concern through the establishment of reserves or other protected areas. There were no public comments on the IRFA, and no economic impact issues were raised by public comments. During 1995–96, 121 commercial fishermen reported harvests occurring in the general vicinity of the MCD, and an estimated 20 to 30 of these small entities are thought to have conducted fishing activities within the MCD. The IRFA defined the universe to be all 121 of the small entities because all will be affected either by displacement from the MCD or because of competition from other vessels displaced from the MCD. The 121 vessels landed about 390,000 lb

(176,901 kg) of fish valued at about $1.7 million in aggregate; operated vessels in the 16-to 40-ft (4.9- to 12.2-m) range; and had 1 or 2 crew members. There are no additional reporting, recordkeeping, or other compliance requirements associated with this rule. In addition to the status quo, the Council originally considered six different geographical locations for an MCD, including the preferred alternative. The status quo alternative was rejected because it would not meet the stated objectives. After further consideration, the Council dropped three of the other alternatives, either because the location and size for these MCDs would not meet the objectives or because it was clear that the economic impacts on small business entities would exceed the benefits from establishing an MCD. A fourth MCD alternative was rejected because the objectives would have been met, but larger negative impacts would have been incurred than for the preferred alternative. The fifth MCD alternative was rejected because it was not clear if the objectives would have been met, yet the negative impacts were similar to those for the preferred alternative. The preferred alternative was chosen because it met the stated FMP objectives while minimizing negative economic impacts. The Council also considered a set of alternatives that would have applied to allowable activities within the MCD. The Council chose the most restrictive alternative, a pure no-take MCD, over three alternative proposals. The first of the rejected alternatives would have allowed the removal of organisms for restoration, educational, or scientific purposes; the second would have allowed the use of handlines within the MCD as long as the fishing vessel was not anchored; and the third would have prohibited all gear except trolling. The RIR examined all these scenarios in detail, and the Council determined that the short-term negative impacts associated with the pure no-take restriction (preferred alternative) would be exceeded by the long-term benefits of protecting all the resources in the MCD. The reasoning for rejecting the other alternatives was that allowing exemptions to a pure no-take regime, even for scientific or educational purposes, could provide loopholes that would present problems with compliance and enforcement. This could lead to a situation whereby the FMP objectives would not be met. Accordingly, the Council took the more restrictive approach even though the short-term negative impacts were fully described and acknowledged. This final rule also prohibits anchoring by commercial or recreational fishing vessels within the boundaries of the MCD. The status quo of allowing anchoring was rejected to lessen the environmental impact of anchoring and to make it easier to enforce the ban on fishing in the MCD.

Copies of the FRFA are available (see **ADDRESSES**).

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: October 29, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 622.33 is revised to read as follows:

§ 622.33 Caribbean EEZ seasonal and/or area closures.

(a) *Seasonal closures.* (1) *Mutton snapper spawning aggregation area.* From March 1 through June 30, each year, fishing is prohibited in that part of the following area that is in the EEZ. The area is bounded by rhumb lines connecting, in order, the points listed.

Point	North lat.	West long.
A	17°37.8′	64°53.0′
B	17°39.0′	64°53.0′
C	17°39.0′	64°50.5′
D	17°38.1′	64°50.5′
E	17°37.8′	64°52.5′
A	17°37.8′	64°53.0′

(2) *Red hind spawning aggregation areas.* From December 1 through February 28, each year, fishing is prohibited in those parts of the following areas that are in the EEZ. Each area is bounded by rhumb lines connecting, in order, the points listed.

(i) East of St. Croix.

Point	North lat.	West long.
A	17°50.2′	64°27.9′
B	17°50.1′	64°26.1′
C	17°49.2′	64°25.8′
D	17°48.6′	64°25.8′
E	17°48.1′	64°26.1′
F	17°47.5′	64°26.9′
A	17°50.2′	64°27.9′

(ii) *West of Puerto Rico*—(A) Bajo de Cico.

Point	North lat.	West long.
A	18°15.7′	67°26.4′
B	18°15.7′	67°23.2′
C	18°12.7′	67°23.4′
D	18°12.7′	67°26.4′
A	18°15.7′	67°26.4′

(B) *Tourmaline Bank.*

Point	North lat.	West long.
A	18°11.2′	67°22.4′
B	18°11.2′	67°19.2′
C	18°08.2′	67°19.2′
D	18°08.2′	67°22.4′
A	18°11.2′	67°22.4′

(C) *Abrir La Sierra Bank.*

Point	North lat.	West long.
A	18°06.5′	67°26.9′
B	18°06.5′	67°23.9′
C	18°03.5′	67°23.9′
D	18°03.5′	67°26.9′
A	18°06.5′	67°26.9′

(3) *Queen conch closure.* From July 1 through September 30, each year, no person may fish for queen conch in the Caribbean EEZ and no person may possess on board a fishing vessel a queen conch in or from the Caribbean EEZ.

(b) *Year-round area closures.* (1) *Hind Bank Marine Conservation District (MCD).* The following activities are prohibited within the Hind Bank MCD: Fishing for any species, and anchoring by fishing vessels. The Hind Bank MCD is bounded by rhumb lines connecting, in order, the points listed.

Point	North lat.	West long.
A	18°13.2′	65°06.0′
B	18°13.2′	64°59.0′
C	18°11.8′	64°59.0′
D	18°10.7′	65°06.0′
A	18°13.2′	65°06.0′

(2) [Reserved]

[FR Doc. 99–28830 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 64, No. 213
Thursday, November 4, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–135–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–8 series airplanes. For certain airplanes, this proposal would require inspection(s) to detect cracks of the doorjamb corners and follow-on actions. For certain other airplanes, this proposal would require installation of a preventative modification; an inspection to detect cracks at the corners of the doorjambs of the passenger and service doors; and follow-on actions. This proposal is prompted by reports indicating that fatigue cracks were found in the fuselage skin and doublers at the corners of the doorjambs of the passenger and service doors. The actions specified by the proposed AD are intended to detect and correct such fatigue cracking, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane.

DATES: Comments must be received by December 20, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–135–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from The Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California.

FOR FURTHER INFORMATION CONTACT: Greg DiLibero, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5231; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–135–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–135–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of fatigue cracks in the fuselage skin and doublers at the corners of the doorjambs of the passenger and service doors on McDonnell Douglas Model DC–8 series airplanes. These cracks were discovered during inspections conducted as part of the Supplemental Inspection Document (SID) program, required by AD 93–01–15, amendment 39–8469 (58 FR 5576, January 22, 1993). Investigation revealed that such cracking was caused by fatigue related stress. Fatigue cracking in the fuselage skin or doublers at the corners of the doorjambs of the lower cargo doors, if not detected and corrected in a timely manner, could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC8–53–075, dated August 17, 1995. For certain airplanes, the service bulletin describes procedures for various inspection(s) to detect cracks of the doorjamb corners and follow-on actions. The follow-on actions include either performing repetitive inspections or installing a preventative modification, and repairing cracks, if necessary. For certain other airplanes, the service bulletin describes procedures for installation of a preventative modification; an inspection to detect cracks at the corners of the doorjambs of the passenger and service doors; and follow-on actions similar to those described above. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions

specified in the service bulletin described previously, except as discussed below.

Difference Between the Relevant Service Information and the Proposed AD

Operators should note that, although the service bulletin specifies that the manufacturer must be contacted for disposition of certain conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

For Group 3 airplanes, the service bulletin describes procedures for accomplishing a preventative modification, an inspection of the corners of the doorjamb of the passenger and service doors, and follow-on actions (i.e., repetitive inspections or contact manufacturer for disposition instructions for cracked doors, as applicable). ''Group 3 airplanes'' in the service bulletin is defined as aircraft with Douglas approved permanent repairs other than those outlined in the Structural Repair Manual or SR0850021. The service bulletin recommends that operators contact Douglas Aircraft Company two years prior to the accumulation of 17,000 total landings after accomplishment of the permanent repair, and that the inspection be conducted after accomplishment of the preventative modification. However, the proposed AD would require a revision of the FAA-approved maintenance or inspection program to include an inspection program for the doorjamb corners identified in the service bulletin. The proposed compliance for this revision is within 6 years following accomplishment of the permanent repair or 3 years after the effective date of this AD, whichever occurs later. The new inspection program shall be approved by the FAA.

After review of the average utilization rates for U.S. operators of Model DC–8 series airplanes, the FAA has determined that a compliance time of prior to the accumulation of 17,000 landings would not provide an acceptable level of safety. In developing an appropriate compliance time for this action, the FAA considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of the revision of the FAA-approved maintenance or inspection program. In consideration of these items, as well as the thresholds established in the repair assessment program (RAP), the FAA has determined that the proposed compliance time represents an appropriate interval of time wherein the requirements of the proposed AD can be accomplished during scheduled maintenance intervals for the majority of affected operators, and an acceptable level of safety can be maintained.

Operators also should note that, although the service bulletin specifies that the result of inspections be reported to the manufacturer, this proposal would not require a reporting requirement.

Cost Impact

There are approximately 294 airplanes of the affected design in the worldwide fleet. The FAA estimates that 251 airplanes of U.S. registry would be affected by this proposed AD.

Should an operator be required to accomplish the proposed inspection(s), it would take 48 (Group 1 airplanes) and 74 (all other groups of airplanes) work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection(s) proposed by this AD on U.S. operators is estimated to be $2,880 (Group 1 airplanes) and $4,440 (all other groups of airplanes) per airplane, per inspection cycle.

Should an operator be required or elect to accomplish the proposed preventative modification, it would take approximately 1,440 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $2,000 per airplane. Based on these figures, the cost impact of the preventative modification proposed by this AD on U.S. operators is estimated to be $88,400 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

McDonnell Douglas: Docket 98–NM–135–AD.

Applicability: Model DC–8 series airplanes, as listed in McDonnell Douglas Service Bulletin DC8–53–075, dated August 17, 1995; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking in the fuselage skin and doublers at the corners of the doorjambs of the passenger and service doors, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane, accomplish the following:

Note 2: Where there are differences between the service bulletin and the AD, the AD prevails.

Note 3: The words ''repair'' and ''modify/modification'' in this AD and in the

referenced service bulletin are used interchangeably.

Note 4: This AD is related to AD 93–01–15, amendment 39–8469, and will affect Principal Structural Elements (PSE) 53.08.038, 53.08.039, 53.08.040, and 53.08.041 of the DC–8 Supplemental Inspection Document (SID), Report L26–011, Volume I, Revision 3, dated March 1991.

(a) For airplanes identified as Group 1 in McDonnell Douglas Service Bulletin DC8–53–075, dated August 17, 1995: Within 2,000 landings or 3 years after the effective date of this AD, whichever occurs first, perform the applicable inspection(s) to detect cracks of the doorjamb corners in accordance with the service bulletin.

(1) If no crack is detected during any inspection required by paragraph (a) of this AD, repeat the applicable inspection(s) required by paragraph (a) of this AD thereafter at intervals specified for Group 1 airplanes in paragraph 1.E. of the service bulletin; or accomplish the preventative modification in accordance with the service bulletin. Accomplishment of the preventative modification constitutes terminating action for the repetitive inspection requirements of this paragraph.

(2) If any crack is detected during any inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with the service bulletin, except as provided by paragraph (f) of this AD.

(b) Within 17,000 landings following accomplishment of the modification/repair required by either paragraph (a)(1) or (a)(2) of this AD, perform an inspection to detect cracks of the doorjamb corners, in accordance with McDonnell Douglas Service Bulletin DC8–53–075, dated August 17, 1995.

(1) If no crack is detected, repeat the inspection thereafter at intervals not to exceed 4,400 landings.

(2) If any crack is detected, prior to further flight, repair in accordance with the service bulletin, except as provided by paragraph (f) of this AD.

(c) For airplanes identified as Group 2 in McDonnell Douglas Service Bulletin DC8–53–075, dated August 17, 1995: Within 2,000 landings or 3 years after the effective date of this AD, whichever occurs first, accomplish the preventative modification in accordance with the service bulletin. Within 17,000 landings following accomplishment of the preventative modification, perform an inspection to detect cracks of the doorjamb corners, in accordance with the service bulletin.

(1) If no crack is detected during any inspection required by paragraph (c) of this AD, repeat the inspection thereafter at intervals not to exceed 4,400 landings.

(2) If any crack is detected during any inspection required by paragraph (c) of this AD, prior to further flight, repair it in accordance the service bulletin, except as provided by paragraph (f) of this AD.

(d) For airplanes identified as Group 3 in McDonnell Douglas Service Bulletin DC8–53–075, dated August 17, 1995: Within 6 years following accomplishment of the permanent repair or within 3 years after the effective date of this AD, whichever occurs later, revise the FAA-approved maintenance or inspection program to include an inspection program for the doorjamb corners identified in the service bulletin. The new inspection program shall be approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note 5: Requests for approval of inspection procedures of the permanent repairs that are proposed for inclusion in the FAA-approved maintenance or inspection program, as required by this AD, should include a damage tolerance assessment.

(e) For airplanes identified as Group 4 in McDonnell Douglas Service Bulletin DC8–53–075, dated August 17, 1995: Within 17,000 landings following accomplishment of the modification specified in the service bulletin, perform an inspection to detect cracks of the doorjamb corners, in accordance with the service bulletin.

(i) If no crack is detected during any inspection required paragraph (e) of this AD, repeat the inspection thereafter at intervals not to exceed 4,400 landings.

(ii) If any crack is detected during any inspection required by paragraph (e) of this AD, prior to further flight, repair in accordance with the service bulletin, except as provided by paragraph (f) of this AD.

(f) Where McDonnell Douglas Service Bulletin DC8–53–075, dated August 17, 1995, specifies that the manufacturer may be contacted for disposition of certain repair conditions, this AD requires the repair of those conditions to be accomplished in accordance with a method approved by the Manager, Los Angeles ACO.

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

Note 6: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(h) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 29, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–28849 Filed 11–3–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–218–AD]

RIN 2120–AA64

Airworthiness Directives; Cessna Model 750 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Cessna Model 750 airplanes. This proposal would require replacement of reset circuit breakers for the auxiliary hydraulic pump system and the King KHF 950 high frequency communication system(s) with new circuit breakers. This proposal is prompted by a report from the airplane manufacturer indicating that the trip levels for the reset circuit breakers installed in the auxiliary hydraulic pump system and the King KHF 950 high frequency system(s) are too high, which can prevent corresponding high current remote control circuit breakers from tripping when excessive electrical loads are present. The actions specified by the proposed AD are intended to prevent overloading of the affected airplane electrical wiring and circuits, which could result in a fire.

DATES: Comments must be received by December 20, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–218–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Cessna Aircraft Co., P.O. Box 7706, Wichita, Kansas 67277. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Raymond Johnston, Aerospace Engineer, Systems and Propulsion Branch, ACE–

116W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4151; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–218–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–218–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report from the manufacturer of Cessna Model 750 airplanes indicating that the trip levels for the reset circuit breakers installed in the auxiliary hydraulic pump system and the King KHF 950 high frequency communication system(s) are too high. Investigation has revealed that engineering drawings incorrectly called out 5.0-ampere reset circuit breakers instead of 0.5-ampere reset circuit breakers. This condition can prevent the reset circuit breakers' corresponding high current remote control circuit breakers from tripping when excessive electrical loads are present. This condition, if not corrected, could lead to overloading of the affected airplane electrical wiring and circuits, and a possible fire.

Explanation of Relevant Service Information

The FAA has reviewed and approved Cessna Service Bulletin SB750–24–15, Revision 1, dated May 24, 1999, which describes procedures for replacement of the 5.0-ampere reset circuit breakers for the auxiliary hydraulic pump system and the King KHF 950 high frequency communication systems, with 0.5-ampere circuit breakers. Accomplishment of the actions specified in this service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

There are approximately 82 airplanes of the affected design in the worldwide fleet. The FAA estimates that 80 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. The airplane manufacturer has committed previously to its customers that it will bear the cost of replacement parts. As a result, the costs of those parts are not attributable to this proposed AD. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $14,400, or $180 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. However, the FAA has been advised that manufacturer warranty remedies are available for parts and labor costs associated with accomplishing the actions required by this proposed AD. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figure indicated above.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Cessna Aircraft Company: Docket 99–NM–218–AD.

Applicability: Model 750 airplanes, serial numbers –0001 through –0100 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in

accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent overloading of certain airplane electrical wiring and circuits, which could result in a fire, accomplish the following:

Replacement

(a) Within 90 days after the effective date of this AD, replace the 5.0-ampere reset circuit breakers for the auxiliary hydraulic pump system and the King KHF 950 high frequency communication system(s) with 0.5-ampere reset circuit breakers, in accordance with Cessna Service Bulletin SB750–24–15, Revision 1, dated May 24, 1999.

Note 2: Circuit breaker replacement accomplished prior to the effective date of this AD in accordance with Cessna Service Bulletin SB750–24–15, dated May 7, 1999, is considered acceptable for compliance with the applicable action specified in this amendment.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA, Small Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 29, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–28848 Filed 11–3–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–247–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300, A310, and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A300, A310, and A300–600 series airplanes. This proposal would require either replacement of the spring rod assemblies of the rudder servo controls with improved spring rod assemblies; or modification of the existing spring rod assemblies. For certain airplanes, this proposed AD would require a one-time visual inspection to determine whether certain parts of the spring rod assemblies of the rudder servo controls are installed; and corrective actions, if necessary. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent corrosion of the spring rod assemblies of the rudder servo controls, which could result in the jamming of the rudder servo controls and consequent reduced controllability of the airplane.

DATES: Comments must be received by December 6, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–247–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–247–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–247–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Géńerale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A300, A310, and A300–600 series airplanes. The DGAC advises that it has received reports of jammed spring rods of the rudder servo controls. Investigation revealed that the internal mechanism parts of the spring rod assemblies of the rudder servo controls were heavily corroded and the drain holes were clogged. Such corrosion, if not corrected, could result in the jamming of the rudder servo controls

and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

The manufacturer has issued Airbus Service Bulletins A300–27–182, Revision 2 (for Model A300 series airplanes); A310–27–2065, Revision 2 (for Model A310 series airplanes); and A300–27–6023, Revision 2 (for Model A300–600 series airplanes); each dated June 30, 1999. These service bulletins describe procedures for either replacement of the spring rod assemblies of rudder servo controls with improved spring rod assemblies, or modification of the existing spring rod assemblies of the rudder servo controls. The modification involves enlarging the drain holes of the spring rod assembly housing, replacing the retainers, and removing the lubrication between the retainer spring and rod body. If a modified spring rod assembly is installed, the modification also includes re-identification of the modified spring rod assembly to the correct part number.

For certain airplanes, the service bulletins describe procedures for a one-time visual inspection to determine whether certain part numbers of the spring rod assemblies of the rudder servo controls are installed; and corrective actions, if necessary. The corrective actions involve re-identifying all spring rod assemblies to the part number specified in the service bulletin.

Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified these service bulletins as mandatory and issued French airworthiness directive 1999–240–288(B), dated June 30, 1999, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 156 airplanes of U.S. registry would be affected by this proposed AD.

If an operator elects to replace the spring rod assemblies: It would take approximately 4 work hours per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would cost approximately $3,720 per airplane. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $3,960 per airplane.

If an operator elects to modify the spring rod assemblies: It would take approximately 7 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. Required parts would cost approximately $294 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $714 per airplane.

If an operator is required to accomplish the one-time inspection: It would take approximately 1 work hour per airplane to accomplish that proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $60 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

Airbus Industrie: Docket 99–NM–247–AD.

Applicability: Model A300, A310, and A300–600 series airplanes except those airplanes on which Airbus Modification 10438 has been installed, or Airbus Service Bulletins A300–27–0182, Revision 2, A300–27–6023, Revision 2, or A300–27–2065, Revision 2, each dated June 30, 1999, has been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent corrosion of the spring rod assemblies of the rudder servo controls,

which could result in the jamming of the rudder servo controls and consequent reduced controllability of the airplane, accomplish the following:

(a) For airplanes on which the spring rod assemblies of the rudder servo controls have not been modified in accordance with Airbus Service Bulletin A300–27–182, dated March 16, 1995, or Revision 1, dated November 21, 1996 (for Model A300 series airplanes); A310–27–2065, dated March 16, 1995, or Revision 1, dated March 10, 1997 (for Model A310 series airplanes); or A300–27–6023, dated March 16, 1995, or Revision 1, dated March 10, 1997 (for Model A300–600 series airplanes); as applicable; as of the effective date of this AD: Within 1 year after the effective date of this AD, accomplish the actions specified in either paragraph (a)(1) or (a)(2) in accordance with Airbus Service Bulletin A300–27–182, Revision 2 (for Model A300 series airplanes); or A310–27–2065, Revision 2 (for Model A310 series airplanes); or A300–27–6023, Revision 2 (for Model A300–600 series airplanes); each dated June 30, 1999; as applicable.

(1) Replace the spring rod assemblies with improved spring rod assemblies; or

(2) Modify the existing spring rod assemblies and re-identify all modified spring rod assemblies.

(b) For airplanes on which the spring rod assemblies of the rudder servo controls have been modified in accordance with Airbus Service Bulletin A300–27–182, dated March 16, 1995, or Revision 1, dated November 21, 1996 (for Model A300 series airplanes); or A310–27–2065, dated March 16, 1995, or Revision 1, dated March 10, 1997 (for Model A310 series airplanes); or A300–27–6023, dated March 16, 1995, or Revision 1, dated March 10, 1997 (for Model A300–600 series airplanes); as applicable; as of the effective date of this AD: Within 1 year after the effective date of this AD, perform a one-time visual inspection to verify that all spring rod assemblies of the rudder servo controls have the same part numbers, in accordance with Airbus Service Bulletin A300–27–182, Revision 2 (for Model A300 series airplanes); or A310–27–2065, Revision 2 (for Model A310 series airplanes); or A300–27–6023, Revision 2 (for Model A300–600 series airplanes); each dated June 30, 1999; as applicable.

(1) If all three spring rod assemblies have either P/N A2727086500400 or A2727086500600, no further action is required by this AD.

(2) If any spring rod assembly has a part number other than P/N A2727086500400 or A2727086500600, prior to further flight, re-identify all spring rod assemblies to the part number specified in the applicable service bulletin, in accordance with the applicable service bulletin.

(c) As of the effective date of this AD, no person shall install on any airplane a spring rod assembly having P/N A2727086500200.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 3: The subject of this AD is addressed in French airworthiness directive 1999–240–288(B), dated June 30, 1999.

Issued in Renton, Washington, on October 29, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–28847 Filed 11–3–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 141 and 385

[Docket No. RM00–1–000]

Electronic Filing of FERC Form Nos. 423, 714 and 715; Notice of Proposed Rulemaking

October 28, 1999.

AGENCY: Federal Energy Regulatory Commission.

ACTIONS: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend its regulations under the Federal Power Act (FPA) to provide for the electronic filing of FERC Form Nos. 423, 714 and 715 (collectively, Forms). Commencing with filings for the year 2000, filings would be required to be made electronically over the Commission's web site thereby eliminating the need for paper copies. The Commission is developing the capacity to accept such filings electronically and will conduct tests of the software and related elements of the electronic filing mechanism for each of the forms prior to formal implementation. The automation of the Forms will yield significant benefits to the Commission, the respondents, and to the electric industry as a whole. These benefits include more timely analysis and publication of data, increased data analysis capability, reduced cost of data entry and retrieval, simplification of form design and an eventual overall reduction in filing burden.

DATES: Comments on the Notice of Proposed Rulemaking are due December 6, 1999. Comments should be filed with the Office of the Secretary and should refer to Docket No. RM00–1–000.

ADDRESS: File comments with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426

FOR FURTHER INFORMATION CONTACT:

Meesha M. Bond (Technical Information), Office of Electric Power Regulation, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208–1414

Camilla Ng (Technical Information), Office of Electric Power Regulation, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208–0706

S.L. Higginbottom (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208–2168

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Room 2A, Washington, DC 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission from November 14, 1994, to the present. CIPS can be accessed via Internet through FERC's Home Page (http://www.ferc.fed.us) using the CIPS Link or the Energy Information Online icon. Documents will be available on CIPS in ASCII and WordPerfect 8.0. User assistance is available at (202) 208–2474 or by E-mail to cips.master@ferc.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's

Home Page using the RIMS link or the Energy Information Online icon. User assistance is available at (202) 208–2222, or by E-mail to rimsmaster@ferc.fed.us.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. RVJ International, Inc. is located in the Public Reference Room at 888 First Street, N.E., Washington, DC 20426.

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to amend 18 CFR Parts 141 and 385 to provide for the electronic filing using web-based applications of FERC Form No. 423, ''Monthly Report of Cost and Quality of Fuels for Electric Plants'' (Form 423), FERC Form No. 714, ''Annual Electric Control and Planning Area Report'' (Form 714), and FERC Form No. 715, ''Annual Transmission Planning and Evaluation Report'' (Form 715), (collectively, Forms). This will eliminate the filing of paper copies of these Forms. Electronic filing of the Forms would be required commencing in the year 2000 as follows: the electronic filing of Form 423 will commence with the Form 423 for reporting month January 2000, which is due no later than March 16, 2000; the electronic filing of Form 714 will commence with the Form 714 for reporting calendar year 1999, which is due no later than June 1, 2000; and the electronic filing of Form 715 will commence with the Form 715 for reporting calendar year 1999, which is due no later than April 1, 2000.

II. Reporting Burden

The Commission anticipates a decrease in reporting burden for collection of information resulting from this proposed rule. For the last few years, most entities required to submit these Forms have been preparing their Forms' paper copies from computer-based systems. This proposed rule, requiring the filing of the Forms electronically using web-based applications, would avoid the need to prepare and submit paper copies.

The automation of the Forms will yield significant benefits to the Commission, the respondents, and to the electric industry as a whole. These benefits include more timely analysis and publication of data, increased data analysis capability, reduced cost of data entry and retrieval, simplification of form design and an eventual overall reduction in filing burden. These benefits conform to the Commission's plan for efficient information collection and communication.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426 [Attention: Michael Miller, Office of Chief Information Officer, phone: (202) 208–1415, fax: (202) 208–2425, e-mail: *mike.miller@ferc.fed.us*].

For submitting comments concerning the collection of information and the associated burden estimate, please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–3087, fax: (202) 395–7285].

III. Background

The Commission, in the exercise of its authority under the Federal Power Act, collects data pertaining to the electric industry in the United States.[1] Forms 423, 714 and 715 are some of the forms used for the collection of this information.

The Form 423 data are, at present, submitted monthly in hard copy form by approximately 227 entities for 702 electric generation plants. Currently, Form 423 respondents must file an original and 3 copies, no later than forty-five (45) days after the end of the report month. The Form 423 data are used by Commission staff for ratemaking purposes, by other government agencies for market oversight and other assessments and by the public for various fuel-related studies and analyses.

The Form 714 data are submitted annually by approximately 237 electric utilities and/or control areas having a load greater than 200 MW. Portions of the data are filed in hard copy form, with the remainder of the data filed electronically. The Form 714 data are used by Commission staff to evaluate utility operations related to proposed mergers, interconnections, wholesale rate investigations, and wholesale market changes and trends under emerging competitive forces. Such evaluations also are made to assess reliability, costs and other operating attributes.

The Form 715 data are submitted annually by 117 respondents for approximately 283 transmitting utilities. Portions of the data are filed in hard copy form, with the remainder of the data filed electronically. The Form 715 data are used by Commission staff and others to evaluate transmission capacity availability and constraints.

In recent years, the Commission and its staff have been approached by individual electric utilities and energy information research groups inquiring whether the Commission either had or planned to develop automated data filing systems for the Forms. These parties suggested that such procedures could yield significant benefits in terms of process simplification and savings of time and expense.

The Commission has given careful consideration to this matter and believes it is now appropriate to implement electronic filing using web-based applications for the Forms. The Commission believes this automation of the Forms will yield significant benefits to the Commission, the respondents, and to the electric industry as a whole. These benefits include more timely analysis and publication of data, increased data analysis capability, reduced cost of data entry and retrieval, simplification of form design, and overall reduction of filing burden.

IV. Summary of Proposal

The Commission proposes to use a web-based, electronic-filing application for each of the Forms. The applications for filing each of these Forms will be available over the Commission's web site sufficiently in advance to allow respondents to meet the filing deadlines for data submitted for (Form 423) or in (Forms 714 and 715) the year 2000. Each of these applications will display the respective form's format and provide the capability for respondents to file on-line. The applications will also permit a respondent the option either to ''import'' the required data from its computer directly into the software package or to manually enter the data. When the data entry is completed, the filing will be officially submitted electronically to the Commission through the Commission's web site.

V. Procedure for Implementation

The Commission has already initiated the process of developing the necessary web-based, electronic-filing applications for each of the Forms. The Commission will conduct field tests of the applications with volunteer Form respondents. It is anticipated that during the field tests the volunteer respondents will be in contact with the Commission staff. The results of the testing process will be evaluated and, if necessary, the applications will be modified.

[1] 16 U.S.C. 825, 825c.

The Commission expects the applications to be completed for each Form sufficiently in advance to allow respondents to meet the deadlines for data submitted for (Form 423) or in (Forms 714 and 715) the year 2000.

VI. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act[2] requires rulemakings to contain either a description and analysis of the effect that a rule will have on small entities or to certify that the rule will not have a significant economic effect on a substantial number of small entities. Because most respondents do not fall within the definition of ''small entity,''[3] the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VII. Information Collection Statement

The regulations of the Office of Management and Budget (OMB)[4] require that OMB approve certain information and record keeping requirements imposed by an agency. The information collection requirements in this proposed rule are contained in Form 423, ''Monthly Report of Cost and Quality of Fuels for Electric Plants'' (OMB approval No. 1902–0024); in Form 714, ''Annual Electric Control and Planning Area Report'' (OMB approval No. 1902–0140); and in Form 715, ''Annual Transmission Planning and Evaluation Report'' (OMB approval No. 1902–0171). OMB recertifications are coincidently occurring with this NOPR.

The Commission uses the data collected in the Form 423 reports to carry out its regulatory responsibilities, including comparing delivered fuel costs for utilities receiving like fuels of similar quality; detecting consistently high cost patterns or irregularities indicative of possible uneconomic fuel purchase practices; evaluating the economic effect of unusual fuel purchase practices (such as buying fuel from affiliate fuel sources, as opposed to selecting suppliers by competitive bids); and investigating a broad range of fuel cost and fuel purchase practice issues raised in contested rate proceedings. Such data are also used by other government agencies and the public for similar purposes.

Form 714 gathers utility operating and planning information, primarily on a control area basis, for the purpose of evaluating utility operations related to proposed mergers, interconnections, wholesale rate investigations, and wholesale market changes and trends under emerging competitive forces. Such evaluations also are made to assess reliability, costs and other operating attributes.

The information reported on Form 715 is used to inform Commission staff, potential transmission customers, state regulatory authorities, and the public of, among other things, potentially available transmission capacity and transmission constraints on electric transmission systems. Potential transmission system customers will use the information to determine transmission availability. Transmission dependent utilities will use the information to determine transmission availability to access alternative wholesale suppliers.

The automation of the Forms will yield significant benefits to the Commission, the respondents, and to the electric industry as a whole. These benefits include more timely analysis and publication of data, increased data analysis capability, reduced cost of data entry and retrieval, simplification of form design, and an eventual overall reduction in filing burden.

VIII. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for any Commission action that may have a significant adverse effect on the human environment.[5] No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural or that does not substantially change the effect of legislation or regulations being amended,[6] and also for information gathering, analysis, and dissemination.[7] The proposed rule changes do not substantially change the effect of the underlying legislation or change the Forms, and also involve information gathering. Accordingly, no environmental considerations are necessary.

IX. Public Comment Procedure

The Commission invites all interested persons to submit written comments on this proposal. An original and 14 copies of such comments should be received by the Commission before 5:00 p.m. December 6, 1999. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, and should refer to Docket No. RM00–1–000.

In addition to filing paper copies, the Commission encourages the filing of comments either on computer diskette or via Internet e-mail. Comments may be filed in the following formats: WordPerfect 8.0 or lower version, Microsoft Word 97 or lower version, or ASCII format.

For diskette filing, include the following information on the diskette label: Docket No. RM00–1–000; the name of the filing entity; the software and version used to create the file; and the name and telephone number of the contact person.

For Internet E-Mail submittal, comments should be submitted to ''comment.rm@ferc.fed.us'' in the following format. On the subject line, specify Docket No. RM00–1–000. In the body of the E-Mail message, include the name of the filing entity; the software and version used to create the file, and the name and telephone number of the contact person. Attach the comment to the E-Mail in one of the formats specified above. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt. Questions on electronic filing should be directed to Brooks Carter at (202) 501–8145, E-Mail address brooks.carter@ferc.fed.us.

Commenters should take note that, until the Commission amends its rules and regulations, the paper copy of the filing remains the official copy of the document submitted. Therefore, any discrepancies between the paper filing and the electronic filing or the diskette will be resolved by reference to the paper filing.

All written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference room at 888 First Street, N.E., Washington, DC 20426, during regular business hours. Additionally, comments may be viewed, printed, or downloaded remotely via the Internet through FERC's Homepage using the RIMS or CIPS links. RIMS contains all comments but only those comments submitted in electronic format are available on CIPS. User assistance is available at (202) 208–2222, or by E-Mail to rimsmaster@ferc.fed.us.

List of Subjects

18 CFR Part 141

Electric power, Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties,

[2] 5 U.S.C. 601–612.

[3] See 5 U.S.C. 601(3).

[4] 5 CFR 1320.13.

[5] Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987); FERC Stats. & Regs. 30,783 (1987).

[6] 18 CFR 380.4(a)(2)(ii).

[7] 18 CFR 380.4(a)(5).

Pipelines, Reporting and recordkeeping requirements.

By direction of the Commission.

David P. Boergers,

Secretary.

In consideration of the foregoing, the Commission proposes to amend Parts 141 and 385, Chapter I, Title 18, of the Code of Federal Regulations, as follows:

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

1. The authority citation for Part 141 continues to read as follows:

Authority: 15 U.S.C. 79; 16 U.S.C. 791a–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

2. Section 141.51 is amended by revising paragraph (c) to read as follows:

§ 141.51 FERC Form No. 714, Annual Electric Control and Planning Area Report.

* * * * *

(c) *What to file.* FERC Form No. 714, ''Annual Electric Control and Planning Area Report,'' must be filed with the Commission as prescribed in § 385.2011 and as indicated in the general instructions set out in this report form, and must be properly completed and verified. Filing on electronic media pursuant to § 385.2011 will be required commencing with the report required to be submitted for the reporting year 1999, to be submitted on or before June 1, 2000.

3. Section 141.61 is revised to read as follows:

§ 141.61 FERC Form No. 423, Monthly Report of Cost and Quality of Fuels for Electric Plants.

(a) *Who must file.* Every electric power producer having electric generating plants with a rated steam-electric generating capacity of 50 megawatts or greater during the reporting month must file with the Federal Energy Regulatory Commission for each such plant the FERC Form No. 423, ''Monthly Report of Cost and Quality of Fuels for Electric Plants,'' pursuant to the General Instructions set out in that form.

(b) *When to file and what to file.* This report form must be filed on or before the 45th day after the end of each reporting month. This report form must be filed with the Federal Energy Regulatory Commission as prescribed in § 385.2011 and as indicated in the general instructions set out in this report form, and must be properly completed and verified. Filing on electronic media pursuant to § 385.2011 will be required commencing with the report required to be submitted for the reporting period of January 2000.

4. Section 141.300 is amended by revising paragraphs (b) and (c) to read as follows:

§ 141.300 FERC Form No. 715, Annual Transmission Planning and Evaluation Report.

* * * * *

(b) *When to file.* FERC Form No. 715 must be filed on or before April 1 for the preceding calendar year.

(c) *What to file.* FERC Form No. 715 must be filed with the Federal Energy Regulatory Commission as prescribed in § 385.2011 and as indicated in the general instructions set out in this report form, and must be properly completed and verified. Filing on electronic media pursuant to § 385.2011 of this chapter will be required commencing with the report required to be submitted for the reporting year of 1999, to be submitted on or before April 1, 2000.

PART 385—RULES OF PRACTICE AND PROCEDURE

5. The authority citation for Part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

6. Section 385.2011 is amended by adding paragraphs (a)(7), (a)(8), and (a)(9) and by revising paragraph (c)(3) to read as follows:

§ 385.2011 Procedures for filing on electronic media (Rule 2011).

(a) * * *

(7) FERC Form No. 423, Monthly report of cost and quality of fuels for electric plants (No paper copies required).

(8) FERC Form No. 714, Annual electric control and planning area report (No paper copies required).

(9) FERC Form No. 715, Annual transmission planning and evaluation report (No paper copies required).

* * * * *

(c) * * *

(3) The electronic media must be accompanied by the traditional prescribed numbers of paper copies, unless otherwise provided in paragraph (a) of this section.

* * * * *

[FR Doc. 99–28821 Filed 11–3–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 20

[Docket No. 99N–2637]

Public Information Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend its public information regulations to comply with the requirements of the Electronic Freedom of Information Act Amendments of 1996 (EFOIA). EFOIA is designed to broaden public access to government documents by making them more accessible in electronic form and by streamlining the process by which agencies generally disclose information.

DATES: Written comments by February 2, 2000.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Betty B. Dorsey, Freedom of Information Staff (HFI–35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6567.

SUPPLEMENTARY INFORMATION:

I. Background

On October 2, 1996, the President signed into law the EFOIA (Public Law 104–231). EFOIA authorizes, and in some instances requires, agencies to issue regulations implementing certain of its provisions, including provisions regarding the aggregation of Freedom of Information Act (FOIA) requests, the expedited processing of FOIA requests, and the establishment of separate queues for the processing of FOIA requests. In addition, EFOIA amends the time limits for responding to a FOIA request from 10 to 20 working days, the process by which an agency may extend the time for responding to an FOIA request, and the requirements for reporting on FOIA activities. EFOIA also includes provisions regarding the availability of records in electronic form and the establishment of ''electronic reading rooms,'' as well as provisions requiring agencies to inform requesters about the amount of information not being released to them. FDA is proposing to amend its Public Information Regulations (part 20 (21 CFR part 20)) to implement EFOIA and

to clarify and update certain provisions unrelated to EFOIA.

II. Proposed New and Revised Provisions

A. Proposed Changes to FDA's Public Information Regulations to Implement EFOIA

The proposed rule would make the following changes to FDA's Public Information Regulations to implement EFOIA:

1. Definitions

New definitions will be added for the following terms:

a. *''Record''*—section 3 of EFOIA amends 5 U.S.C. 552(f) to define ''record'' for purposes of FOIA as including any information that would be an agency record subject to the requirements of 5 U.S.C. 552 (FOIA) when maintained by an agency in any format, including an electronic format. Section 20.20 will be revised to incorporate this definition.

b. *''Search''*—section 5 of EFOIA amends 5 U.S.C. 552(a)(3) to clarify that when an FOIA request is received, an agency should not only search for hard copies, but should also make reasonable efforts to search for records in their electronic form or format, except when such efforts would significantly interfere with the operation of the agency's automated information systems. This provision will be implemented at § 20.34.

2. Information Provided When the Agency Makes a Denial or Partial Disclosure

The amendments (5 U.S.C. 552(a)(6)(F)), require agencies to make a reasonable effort to estimate the volume of any records that are denied either in whole or in part, and to provide the estimate to the requester, unless providing such an estimate would harm an interest protected by an FOIA exemption. FDA will provide an estimate of the volume of records denied if the volume is not otherwise indicated through deletions on records disclosed in part. Such estimates will be provided in terms of number of pages or some other reasonable measure. FDA will implement this new requirement at § 20.49(c).

Additionally, EFOIA amends 5 U.S.C. 552(b) by adding the requirement that when an agency withholds only a portion of a record, the agency shall indicate the amount of information deleted on the released portion of the record to the extent possible, except where doing so would harm an interest protected by an FOIA exemption. If technically feasible, FDA will indicate the amount of information deleted at the place in the record where the deletion is made.

The purpose of this deletion specification requirement is to make it readily apparent to a requester that a deletion has been made. When possible, the extent of the deletion will ordinarily be indicated through the use of some self-evident means. For example, a deletion may be shown by physically obscuring or removing the nondisclosable information by covering the text or figure with opaque marker or dark colored editing tape, cutting out a portion of a microfiche, or by describing in writing the extent of the deletion (e.g., ''pages 3 through 7 are not disclosable''). In those cases in which a record is provided on disk, tape, or in some other electronic form, deletions may also be indicated by using special characters or other indicators. This requirement will be implemented at § 20.22(b).

3. Electronic Reading Room Information and Indexes

Section 4 of EFOIA amends 5 U.S.C. 552(a)(2) which requires agencies to make available for public inspection and copying certain information, such as final agency opinions and orders, certain statements of policy and interpretations, and administrative staff manuals and instructions that affect a member of the public. EFOIA (5 U.S.C. 552(a)(2)(D)) adds a new category of records that agencies must make available in their public reading rooms. This new category consists of copies of records which have been released to any person under FOIA and which, because of their subject matter, the agency determines have become or are likely to become the subject of subsequent requests for substantially the same records. (Examples of such records at FDA might include warning letters and product approval packages.) EFOIA further requires agencies to make available for public inspection and copying a general index of frequently requested records. In addition, EFOIA requires agencies to make available by ''computer telecommunications'' (or by other electronic means, if computer telecommunications means have not been established) all reading room records that were created on or after November 1, 1996, as well as the general index of frequently requested records. FDA will implement these EFOIA requirements at §§ 20.26(a)(4) and 20.120. In addition, at its discretion, the agency may also make available other records and information that EFOIA does not require to be made available on the agency's website but which may be useful to the public. FDA's electronic FOI reading room can be accessed on the Internet through the World Wide Web at http://www.fda.gov.

4. Form or Format of FDA's Response

Section 5 of EFOIA amends 5 U.S.C. 552(a)(3) by adding the requirement for agencies making records available under FOIA to do so ''in the form or format requested by the person if the record is readily reproducible by the agency'' in the requested form or format. ''Form'' refers to the medium in which the record will be provided, such as paper, microfiche, floppy diskette, CD–ROM, or tape. ''Format'' refers to the particular manner of storing or presenting a record within a given medium, such as a particular computer program used to generate the record. Examples would include word processing, spreadsheet, data base or graphics programs and the specific software used.

When converting a record from one form or format to another, the agency will not be required to make special efforts to ensure that the physical appearance of the record is preserved. This means that in some cases, such as when the document contains tables, the appearance of the converted record may vary from the original. If the agency is unable to accommodate a particular request, the requester may be given an opportunity to choose from available alternative forms or formats. If the requester does not express a preference for an alternative form or format, the agency may choose the form or format in which the records will be provided.

FDA's FOIA operations are decentralized and each component office is responsible for responding to FOIA requests for the materials maintained by that office. These component offices shall make reasonable efforts to maintain their records in forms or formats that are readily reproducible for FOIA purposes. Because of the wide range of possible forms and formats, a specific agency component responding to an FOIA request may not have the means to provide records in all requested forms and formats. Agency components are not required to purchase special equipment or software to accommodate a request for a particular form or format, and are not required to send records to another component to accommodate an FOIA request. The agency is striving toward a common records filing structure that will enhance the agency's ability to respond to requests for records in a particular form or format. FDA will implement EFOIA's form and format requirement at § 20.33.

5. Search for Records

Section 5 of EFOIA amends 5 U.S.C. 552(a)(3) to clarify that when an FOIA request is received, an agency should not only search for hard copies, but should also make reasonable efforts to search for records kept in electronic form or format, except when such efforts would significantly interfere with the operation of the agency's automated information systems. Under § 20.34, the agency makes clear that searches for records include and extend to records maintained in an electronic form or format. FDA has included such records in its searches under FOIA for many years, so this provision simply clarifies and formalizes existing practice. The agency will not search for electronic records when to do so would significantly interfere with the operation of the agency's automated information systems. Decisions about when there is significant interference will be made on a case-by-case basis.

6. Time Limits for Responding to Requests

EFOIA amends 5 U.S.C. 552(a)(6)(A)(i) by increasing the time to respond to an FOIA request from 10 to 20 working days. Section 20.41(b) will be revised to reflect this change.

7. Unusual Circumstances

FOIA (5 U.S.C. 552(a)(6)(B)), permits agencies to extend the initial time limit for responding in ''unusual circumstances.'' FOIA specifies various reasons for such an extension. These reasons include the need to search for and collect records from field facilities or other components that are separate from the office processing the request; the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; and the need for consultation among two or more components of FDA, or with another Federal agency having a substantial interest in the determination of the request. In unusual circumstances, the agency may extend the time for informing a requester, by written notice, of the agency's determination of the extent to which the agency will comply with or deny an FOIA request for an additional period beyond the normal 20 days. The agency may extend the time for a response by up to an additional 10 days by providing a written notice to the requester. If the agency is unable to comply within the additional 10 days, the agency may further extend the time for a response by notifying the requester and providing the requester an opportunity to limit the scope of the request so that it can be processed in a shorter time, and/or an opportunity to agree to an alternative timeframe for processing the request. In the event there is a legal dispute concerning a request, section 6(c)(iii) of EFOIA requires the court to take into account a requester's failure to modify the request or arrange for an alternative timeframe when determining whether ''exceptional circumstances'' exist. When exceptional circumstances exist, the court may allow the agency additional time to complete its processing of the request. FDA will implement this provision at § 20.41(b)(3).

8. Aggregation of Certain Requests

Section 7 of EFOIA provides at 5 U.S.C. 552(a)(6)(B)(iv) that agencies may issue regulations allowing for the aggregation of certain FOIA requests by the same requester or by a group of requesters acting together, if the agency reasonably believes that such requests actually constitute a single request, which would otherwise satisfy the unusual circumstances that could justify an extension of the response time. FDA has decided to issue such a regulation and will do so at § 20.42.

9. Multitrack Processing

Section 7 of EFOIA (5 U.S.C. 552(a)(6)(D)(i)) authorizes agencies that experience difficulties in meeting FOIA's time limits to issue regulations providing for multitrack processing of FOIA requests rather than processing them on a first-in, first-out basis. A multitrack system provides two or more tracks for processing requests based on the amount of work and/or time required for a request to be processed. The purpose of multitrack processing is to promote faster and more efficient processing of FOIA requests.

As amended, FDA regulations would permit, but not require, each FDA component to establish a multitrack processing system for responding to FOIA requests. Because FDA has a decentralized system for processing FOIA requests, the agency will allow each of its component offices to make its own decision on whether to use a multitrack processing system or single track processing system. The nature and volume of FOIA requests received and the types of records maintained can differ greatly from one FDA component to another. If a component does choose multitrack processing, that component may determine how many tracks to establish and the specific criteria for assigning requests to each track. Requests assigned to a given track generally will be processed on a first-in, first-out basis within that track. Although requests assigned to a faster track will ordinarily have a faster response time than requests assigned to other tracks, the agency will exercise due diligence in processing all requests, regardless of track. The requester may be provided an opportunity to limit the scope of the request in order to qualify for a faster processing track. If a component chooses not to establish multitrack processing, it ordinarily will use a first-in, first-out single track processing system. This provision will be implemented at § 20.43.

10. Expedited Processing

Section 8 of EFOIA (5 U.S.C. 552(a)(6)(E)) requires agencies to issue regulations to provide for expedited processing of FOIA requests in cases where the person requesting the records demonstrates a ''compelling need'' and in other cases as determined by the agency. The amendments define ''compelling need'' in two ways. One way is where ''failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual.'' The other way is ''with respect to a request made by a person primarily engaged in disseminating information, [there is an] urgency to inform the public concerning actual or alleged Federal Government activity.'' If a requester demonstrates a compelling need, FDA will process the request out of turn and give it expedited treatment. Granting a request for expedited processing does not constitute a promise to meet any particular deadline for responding. Rather, requests that qualify for expedited processing will be processed ''as soon as practicable.''

Where records are required to avoid an imminent threat to the life or physical safety of an individual, the request for expedited processing must be made by the individual whose life or safety is threatened, or by an authorized representative of that individual. Where records are required due to an urgency to inform the public concerning actual or alleged Federal Government activity, the requester must be primarily engaged in disseminating information to the general public and not merely to a narrow interest group. General circulation newspapers and magazines, and radio and television stations are examples of media that are primarily engaged in disseminating information to the general public. In addition, the requested records should pertain to a matter of current exigency to the public and must have a value that will be lost if not obtained and disseminated

quickly. A routine publication or broadcast deadline alone shall not constitute urgency.

Requests for expedited processing must be accompanied by appropriate documentation, including the requester's certification that the information provided in the request is true and correct to best of the requester's knowledge and belief. A requester who knowingly provides false information in support of a request for expedited processing will be subject to criminal penalties under 18 U.S.C. 1001, the False Reports to the Government Act.

Within 10 days of receipt by FDA's Freedom of Information Staff (FOI Staff) of a request for expedited processing and all documentation needed to make a decision on the request, the agency will determine whether to provide expedited processing. The agency will exercise its discretion with fairness and diligence in making a determination about whether to provide expedited processing, giving appropriate consideration to limited resources available to FDA for fulfilling FOIA requests. If the agency denies a request for expedited processing, it will process the request for records with other nonexpedited requests. A requester may appeal FDA's decision to deny expedited processing by writing to the official identified in the denial letter. This new requirement will be implemented at §§ 20.41(c) and 20.44.

B. Proposed Changes to FDA's Public Information Regulations Unrelated to EFOIA

The proposed rule would make the following changes to FDA's public information regulations unrelated to EFOIA:

1. Filing a Request for Records

Section 20.40(a) is being revised to clarify the agency's existing practice of accepting requests submitted to the FOI Staff via facsimile as well as via mail.

2. Revocation of Presubmission Review

The agency proposes to revise § 20.44 concerning presubmission review. This provision allows any person who is considering submission of data or information voluntarily to FDA to request a presubmission review of records involved to determine whether FDA will or will not make part or all of the records available for public disclosure upon request if they are submitted. The FOIA does not require this provision, and the agency has found that presubmission review has not met the underlying policy objective of encouraging the submission to the agency of information bearing on important public health and safety concerns. The provision has fallen into disuse and only rarely has been invoked in the past several years. In addition, the validity of this provision has been questioned by a Federal District Court in the case *Teich* v. *Food and Drug Admin.*, 751 F. Supp. 243 (D.D.C. 1990).

3. Fees to be Charged

Section 20.45 (formerly § 20.42) is being revised to reflect the fact that FDA's fee schedule is in accordance with the fee schedule of the Department of Health and Human Services (DHHS). Section 20.45(c)(6) of the proposed rule would require a requester who wishes to use a courier service for delivery of the agency's response to a request to directly pay, or be directly charged by, the courier service.

4. Records Available in FDA's Public Reading Rooms

Section 20.120 provides the locations and hours of operation of the agency's public reading rooms and outlines the types of records that are available there. This provision essentially summarizes existing agency practice for the convenience of the public.

5. Denial of a Request for Records and Waiver or Reduction of Fees

Sections 20.46 and 20.49 (formerly §§ 20.43 and 20.47) are being revised to indicate that the Associate Commissioner for Public Affairs may delegate his or her authority to deny a request for FDA records or to waive or reduce FOIA fees. FDA is proposing this change to increase the efficiency of its FOIA operations and to make its regulations consistent with DHHS' FOIA regulations at 45 CFR part 5. Section 20.49(c) is also being revised in accordance with current DHHS procedures to indicate that appeals of FDA denials are to be sent to the Deputy Assistant Secretary for Public Affairs (Media), DHHS.

III. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required (21 CFR 25.23(a)).

IV. Economic Impact and Regulatory Flexibility Act

FDA has examined the impacts of the proposed rule under Executive Order 12866, under the Regulatory Flexibility Act (5 U.S.C. 601–612), and under the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Unless an agency certifies that a rule will not have a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires an analysis of regulatory options that would minimize any significant impact of a rule on small entities. The Unfunded Mandates Reform Act requires that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that may result in an annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million (adjusted annually for inflation).

The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In this proposal, the agency is amending its FOIA regulations to reflect the statutory changes made by the EFOIA. The amendments allow greater flexibility to the requesters of information by providing electronic access to information and provide the agency with greater flexibility in providing the requested information through the use of electronic dissemination. The agency is required to make certain records available over the Internet to enable greater public access to this information. The agency is also permitted to adopt multitrack processing systems as a means of decreasing the overall processing time for requests. FDA is updating its record searching and retrieval fees in accordance with the most recent Federal pay increase. Despite the insignificant cost increase for those requesting information, the public will receive the benefits of greater flexibility in making requests, increased access to public information, and in certain cases, a faster agency response.

This rule is not a significant regulatory action as defined by the Executive Order, and is not subject to review under the Executive Order. This rule does not impose any mandates on State, local, or tribal governments, nor is it a significant regulatory action under the Unfunded Mandates Reform Act. Furthermore, the agency certifies that this rule will not have a significant economic impact on a substantial number of small entities. Therefore,

under the Regulatory Flexibility Act, no further regulatory flexibility analysis is required.

V. Paperwork Reduction Act

The agency has determined that this rule does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

VI. Request for Comments

Interested persons may, on or before February 2, 2000, submit to the Dockets Management Branch (address above) written comments regarding this proposed rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 20

Confidential business information, Courts, Freedom of information, Government employees.

Therefore, under the Federal Food, Drug, and Cosmetic Act, the Public Health Service Act, and the Freedom of Information Act, and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 20 be amended as follows:

PART 20—PUBLIC INFORMATION

1. The authority citation for 21 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552; 18 U.S.C. 1905; 19 U.S.C. 2531–2582; 21 U.S.C. 321–393, 1401–1403; 42 U.S.C. 241, 242, 242a, 242l, 242n, 243, 262, 263, 263b–263n, 264, 265, 300u–300u–5, 300aa–1.

2. Section 20.20 is amended by adding paragraph (e) to read as follows:

§ 20.20 Policy on disclosure of Food and Drug Administration records.

* * * * *

(e) ''Record'' and any other term used in this section in reference to information includes any information that would be an agency record subject to the requirements of this part when maintained by the agency in any format, including an electronic format.

3. Section 20.22 is amended by redesignating the existing paragraph as paragraph (a) and by adding new paragraph (b) to read as follows:

§ 20.22 Partial disclosure of records.

(a) * * *

(b)(1) Whenever information is deleted from a record that contains both disclosable and nondisclosable information, the amount of information deleted shall be indicated on the portion of the record that is made available, unless including that indication would harm an interest protected by an exemption under the Freedom of Information Act.

(2) When technically feasible, the amount of information deleted shall be indicated at the place in the record where the deletion is made.

4. Section 20.26 is amended by adding new paragraph (a)(4) and by revising paragraph (b) to read as follows:

§ 20.26 Indexes of certain records.

(a) * * *

(4) Records which have been released to any person in response to a Freedom of Information request and which the agency has determined have become, or are likely to become, the subject of subsequent requests for substantially the same records.

(b) Each such index will be made available through the Internet at http://www.fda.gov. A printed copy of each index is available by writing to the Freedom of Information Staff (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, or by visiting the Freedom of Information public reading room located in rm. 12A–30 at the same address.

5. Subpart B is amended by adding §§ 20.33 and 20.34 to read as follows:

§ 20.33 Form or format of response.

(a) The Food and Drug Administration shall make reasonable efforts to provide a record in any requested form or format if the record is readily reproducible by the agency in that form or format.

(b) If the agency determines that a record is not readily reproducible in the requested form or format, the agency may notify the requester of alternative forms and formats that are available. If the requester does not express a preference for an alternative in response to such notification, the agency may provide its response in the form and format of the agency's choice.

§ 20.34 Search for records.

(a) In responding to a request for records, the Food and Drug Administration shall make reasonable efforts to search for records kept in electronic form or format, except when such efforts would significantly interfere with the operation of the agency's automated information systems.

(b) The term ''search'' means to review, manually or by automated means, agency records for the purpose of locating those records that are responsive to the request.

6. Section 20.40 is amended by revising paragraph (a) to read as follows:

§ 20.40 Filing a request for records.

(a) All requests for Food and Drug Administration records shall be made in writing by mailing or delivering the request to the Freedom of Information Staff (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, or by faxing it to 301–443–1726. All requests must contain the postal address and telephone number of the requester and the name of the person responsible for payment of any fees that may be charged.

* * * * *

7. Section 20.41 is amended by revising the introductory text of paragraph (b) and paragraph (b)(3), and by adding new paragraph (c) to read as follows:

§ 20.41 Time limitations.

* * * * *

(b) Within 20 working days (excluding Saturdays, Sundays, and legal public holidays) after a request for records is logged in at the Freedom of Information Staff, the agency shall send a letter to the requester providing the agency's determination as to whether, or the extent to which, the agency will comply with the request, and, if any records are denied, the reasons for the denial.

* * * * *

(3)(i) In unusual circumstances, the agency may extend the time for sending the letter for an additional period.

(A) The agency may provide for an extension of up to 10 working days by providing written notice to the requester setting out the reasons for the extension and the date by which a determination is expected to be sent.

(B) The agency may provide for an extension of more than 10 working days by providing written notice to the requester setting out the reasons for the extension. The notice also will give the requester an opportunity to limit the scope of the request so that it may be processed in a shorter time and/or an opportunity to agree on a timeframe longer than the 10 extra working days for processing the request.

(ii) Unusual circumstances may exist under any of the following conditions:

(A) There is a need to search for and collect the requested records from field facilities or other components that are separate from the agency component responsible for processing the request;

(B) There is a need to search for, collect, and appropriately examine a voluminous amount of separate and

distinct records which are demanded in a single request; or

(C) There is a need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request, or among two or more components of the Food and Drug Administration having substantial subject-matter interest in the determination.

* * * * *

(c) The Food and Drug Administration shall provide a determination of whether to provide expedited processing within 10 calendar days of receipt by the Freedom of Information Staff of the request and the required documentation of compelling need in accordance with § 20.44(b).

8. Sections 20.45 through 20.53 are redesignated as §§ 20.47 through 20.55; §§ 20.42 and 20.43 are redesignated as §§ 20.45 and 20.46; new §§ 20.42 and 20.43 are added; and newly redesignated § 20.44 is revised to read as follows:

§ 20.42 Aggregation of certain requests.

The Food and Drug Administration may aggregate certain requests by the same requester, or by a group of requesters acting in concert, if the requests involve clearly related matters and the agency reasonably believes that such requests actually constitute a single request which would otherwise satisfy the unusual circumstances specified in § 20.41(b)(3)(ii)(B). FDA may extend the time for processing aggregated requests in accordance with the unusual circumstances provisions of § 20.41.

§ 20.43 Multitrack processing.

(a) Each Food and Drug Administration component is responsible for determining whether to use a multitrack system to process requests for records maintained by that component. A multitrack system provides two or more tracks for processing requests, based on the amount of work and/or time required for a request to be processed. The availability of multitrack processing does not affect expedited processing in accordance with § 20.44.

(b) If multitrack processing is not adopted by a particular agency component, that component will process all requests in a single track, ordinarily on a first-in, first-out basis.

(c) If a multitrack processing system is established by a particular agency component, that component may determine how many tracks to establish and the specific criteria for assigning requests to each track. Multiple tracks may be established for requests based on the amount of work and/or time required for a request to be processed.

(d) Requests assigned to a given track will ordinarily be processed on a first-in, first-out basis within that track.

(e) If a request does not qualify for the fastest processing track, the requester may be provided an opportunity to limit the scope of the request in order to qualify for faster processing.

§ 20.44 Expedited processing.

(a) The Food and Drug Administration will provide expedited processing of a request for records when the requester demonstrates a compelling need, or in other cases as determined by the agency. A compelling need exists when:

(1) A failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(2) With respect to a request made by a person primarily engaged in disseminating information, there is a demonstrated urgency to inform the public concerning actual or alleged Federal Government activity.

(b) A request for expedited processing made under paragraph (a)(1) of this section must be made by the specific individual who is subject to an imminent threat, or by a family member, medical or health care professional, or other authorized representative of the individual, and must demonstrate a reasonable basis for concluding that failure to obtain the requested records on an expedited basis could reasonably be expected to pose a specific and identifiable imminent threat to the life or safety of the individual.

(c) A request for expedited processing made under paragraph (a)(2) of this section must demonstrate that:

(1) The requester is primarily engaged in disseminating information to the general public and not merely to a narrow interest group;

(2) There is an urgent need for the requested information and that it has a particular value that will be lost if not obtained and disseminated quickly; however, a news media publication or broadcast deadline alone does not qualify as an urgent need, nor does a request for historical information; and

(3) The request for records specifically concerns identifiable operations or activities of the Federal Government.

(d) All requests for expedited processing shall be filed in writing as provided by § 20.40. Each such request shall include information that demonstrates a reasonable basis for concluding that a compelling need exists within the meaning of paragraph (a) of this section and a certification that the information provided in the request is true and correct to the best of the requester's knowledge and belief. Any statements made in support of a request for expedited processing are subject to the False Reports to the Government Act (18 U.S.C. 1001).

(e) The Associate Commissioner for Public Affairs (or delegatee) will determine whether to grant a request for expedited processing within 10 days of receipt by the Freedom of Information Staff of all information required to make a decision.

(f) If the agency grants a request for expedited processing, the agency shall process the request as soon as practicable.

(g) If the agency denies a request for expedited processing, the agency shall process the request with other nonexpedited requests.

(h) If the agency denies a request for expedited processing, the requester may appeal the agency's decision by writing to the official identified in the denial letter.

9. Newly redesignated § 20.45 is amended by revising the introductory text of paragraph (c), by removing the third sentence in paragraph (c)(1), and by revising paragraph (c)(6) to read as follows:

§ 20.45 Fees to be charged.

* * * * *

(c) *Fee schedule.* The Food and Drug Administration charges the following fees in accordance with the regulations of the Department of Health and Human Services at 45 CFR part 5.

* * * * *

(6) *Sending records by express mail or other special methods.* This service is not required by the Freedom of Information Act. If the Food and Drug Administration agrees to provide this service, the requester will be required to directly pay, or be directly charged by, the courier. The agency will not agree to any special delivery method that does not permit the requester to directly pay or be directly charged for the service.

* * * * *

10. Newly redesignated § 20.46 is amended by revising the introductory text of paragraph (a) to read as follows:

§ 20.46 Waiver or reduction of fees.

(a) *Standard.* The Associate Commissioner for Public Affairs (or delegatee) will waive or reduce the fees that would otherwise be charged if disclosure of the information meets both of the following tests:

* * * * *

11. Newly redesignated § 20.49 is amended by revising paragraphs (a) and (c) to read as follows:

§ 20.49 Denial of a request for records.

(a) A denial of a request for records, in whole or in part, shall be signed by the Associate Commissioner for Public Affairs (or delegatee).

* * * * *

(c) A letter denying a request for records, in whole or in part, shall state the reasons for the denial and shall state that an appeal may be made to the Deputy Assistant Secretary for Public Affairs (Media), Department of Health and Human Services. The agency will also make a reasonable effort to include in the letter an estimate of the volume of the records denied, unless providing such an estimate would harm an interest protected by an exemption under the Freedom of Information Act. This estimate will ordinarily be provided in terms of the approximate number of pages or some other reasonable measure. This estimate will not be provided if the volume of records denied is otherwise indicated through deletions on records disclosed in part.

* * * * *

12. Section 20.107 is amended by revising paragraph (a) to read as follows:

§ 20.107 Food and Drug Administration manuals.

(a) Food and Drug Administration administrative staff manuals and instructions that affect a member of the public are available for public disclosure. An index of all such manuals is available by writing to the Freedom of Information Staff (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, or by visiting the Freedom of Information public reading room, located in rm. 12A–30 at the same address. The index and all manuals created by the agency on or after November 1, 1996, will be made available through the Internet at http://www.fda.gov.

* * * * *

13. Section 20.120 is added to subpart F to read as follows:

§ 20.120 Records available in Food and Drug Administration Public Reading Rooms.

(a) The Food and Drug Administration operates two public reading rooms. The Freedom of Information Staff's public reading room is located at 5600 Fishers Lane, rm. 12A–30, Rockville, MD 20857; the phone number is 301–827–6500. The Dockets Management Branch's public reading room is located at 5630 Fishers Lane, rm. 1061, Rockville, MD 20852; the phone number is 301–827–6860. Both public reading rooms are open from 9 a.m. to 4 p.m., Monday through Friday, excluding legal public holidays.

(b) The following records are available at the Freedom of Information Staff's public reading room:

(1) A guide for making requests for records or information from the Food and Drug Administration;

(2) Administrative staff manuals and instructions to staff that affect a member of the public;

(3) Food and Drug Administration records which have been released to any person in response to a Freedom of Information request and which the agency has determined have become or are likely to become the subject of subsequent requests for substantially the same records;

(4) Indexes of records maintained in the Freedom of Information Staff's public reading room; and

(5) Such other records and information as the agency determines are appropriate for inclusion in the public reading room.

(c) The following records are available in the Dockets Management Branch's public reading room:

(1) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(2) Statements of policy and interpretation adopted by the agency that are still in force and not published in the **Federal Register**;

(3) Indexes of records maintained in the Dockets Management Branch's public reading room; and

(4) Such other records and information as the agency determines are appropriate for inclusion in the public reading room.

(d) The agency will make reading room records created by the Food and Drug Administration on or after November 1, 1996, available electronically through the Internet at the agency's World Wide Web site which can be found at http://www.fda.gov. At the agency's discretion, the Food and Drug Administration may also make available through the Internet such additional records and information as it believes will be useful to the public.

Dated: September 17, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–28857 Filed 11–3–99; 8:45 am]

BILLING CODE 4160–01–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–2303, MM Docket No. 99–318, RM–9745]

Digital Television Broadcast Service; Panama City, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Waitt License Company of Florida, Inc., licensee of station WPGX (TV), NTSC Channel 28, Panama City, Florida, proposing the substitution of DTV Channel 9 for station WPGX's assigned DTV Channel 29c. DTV Channel 9 can be substituted and allotted to Panama City, Florida, as proposed, in compliance with the principle community requirements of Section 73.625(a) at coordinates 30–23–42 N. and 85–32–02 W. DTV Channel 9 can be allotted to Panama City with a power of 100 (kW) and a height above average terrain (HAAT) of 207 meters.

DATES: Comments must be filed on or before December 23, 1999, and reply comments on or before January 7, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Lawrence Bernstein, 1818 N Street, NW, Suite 700, Washington, DC 20036 (Counsel for Waitt License Company of Florida, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–318, adopted October 29, 1999, and released November 1, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, S.W., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter

is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 99–28663 Filed 11–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–2304, MM Docket No. 99–319, RM–9756]

Digital Television Broadcast Service; Albany, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Waitt License Company of Georgia, L.L.C., licensee of station WFXL (TV), NTSC 31, Albany, Georgia, proposing the substitution of DTV Channel 12 for station WFXL (TV)'s assigned DTV Channel 30. DTV 30 can be substituted and allotted to Albany, Georgia, as proposed, in compliance with the principle community requirements of Section 73.625(a) at coordinates 31–19–52 N. and 83–51–43 W. DTV Channel 12 can be allotted to Albany with a power of 60 (kW) and a height above average terrain (HAAT) of 287 meters.

DATES: Comments must be filed on or before December 23, 1999, and reply comments on or before January 7, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Lawrence Bernstein, 1818 N Street, NW, Suite 700, Washington, DC 20036 (Counsel for Waitt License Company of Georgia, L.L.C.)

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–319, adopted October 29, 1999, and released November 1, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S.W., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 99–28661 Filed 11–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–2356, MM Docket No. 99–322, RM–9762]

Radio Broadcasting Services; Chillicothe and Ashville, OH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Secret Communications II, L.L.C. seeking the reallotment of Channel 227B from Chillicothe to Ashville, OH, as the community's first local aural service, and the modification of Station WKKJ's license to specify Ashville as its community of license. Channel 227B can be allotted to Ashville with a site restriction of 11.9 kilometers (7.4 miles) southeast, at coordinates 39–37–17 North Latitude and 82–53–13 West Longitude. Station WKKJ is a pre-1964 grandfathered short-spaced station with respect to Station WAKW, Channel 227B, Cincinnati, Ohio, and the proposed transmitter site is that specified in its outstanding construction permit (BPH–19981201IA). Therefore, adoption of this proposal would maintain the existing grandfathered short-spacing.

DATES: Comments must be filed on or before December 20, 1999, and reply comments on or before January 4, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Richard R. Zaragoza, Jason S. Roberts, Fisher Wayland Cooper Leader & Zaragoza L.L.P., 2001 Pennsylvania Avenue, NW, Suite 400, Washington, DC 20006 (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–322, adopted October 20, 1999, and released October 29, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–28851 Filed 11–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–2353; MM Docket No. 99–321; RM–9733]

Radio Broadcasting Services; Grand Isle and Empire, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Blue Dolphin Communications, Inc., permittee of Station KBIL(FM), Channel 283A, Grand Isle, Louisiana, requesting the substitution of Channel 283C2 for Channel 283A, the reallotment of Channel 283C2 to Empire, Louisiana, as that community's first local aural transmission service, and modification of its authorization accordingly. Coordinates used for this proposal are 29–29–07 NL and 89–46–39 WL.

DATES: Comments must be filed on or before December 20, 1999, and reply comments on or before January 4, 2000.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: William J. Pennington, III, Esq., Post Office Box 403, Westfield, MA 01086.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–321, adopted October 20, 1999, and released October 29, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–28853 Filed 11–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 90

[RM–9719, DA 99–2351]

Transmission of Emergency Signals on Channel 200; Extension of Time for Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Federal Communications Commission extended the period for filing replies to comments filed in response to a petition for rulemaking requesting the Commission to amend its rules to allocate Channel 200 (87.9 MHz) for the use and operation of an Emergency Radio Data System.

DATES: Reply comments are due on or before November 8, 1999.

FOR FURTHER INFORMATION CONTACT: Catherine Fox of the Wireless Telecommunications Bureau, Public Safety and Private Wireless Division, Policy and Rules Branch, (202) 418–0680. *TTY*: (202) 418–7233.

SUPPLEMENTARY INFORMATION:

1. On August 2, 1999, the Commission received a petition for rulemaking (Petition) filed by Federal Signal Corporation (Federal Signal) requesting that the Commission amend its rules to allocate Channel 200 (87.9 MHz) for the use and operation of an Emergency Radio Data System (ERDS) by public safety licensees. On September 14, 1999, the Commission issued a *Public Notice* instructing parties interested in commenting on Federal Signal's Petition to do so within thirty days (*i.e.*, by October 14, 1999). Consequently, Federal Signal had until October 29, 1999, to file reply comments. On October 25, 1999, the Commission received a Motion for Extension of Time filed by Federal Signal.

2. Federal Signal requests that the Commission grant a ten day extension of time until November 8, 1999, for filing a reply to those comments filed in opposition to its Petition. Federal Signal maintains that several of the comments raise technical and engineering concerns that will require considerable preparation by its consulting engineers, and that an additional ten-days would afford it more adequate time to prepare a full and complete reply in order that the Commission may develop as complete a record as possible. In addition, Federal Signal only recently became apprised of comments which were filed with the Commission, but not served on Federal Signal's counsel as required by § 1.405(a) of the Commission's rules. Finally, Federal Signal indicates that no party will be prejudiced by grant of a ten-day extension.

3. It is the policy of the Commission that extensions of time are not routinely granted. Upon review, however, we agree that a ten-day extension, until November 8, 1999, would afford Federal Signal the necessary time to prepare and file a responsive and complete reply in this proceeding.

4. Accordingly, *it is hereby ordered* that, pursuant to § 1.46 of the Commission's rules, 47 CFR 1.46, the Motion for Extension of Time filed by Federal Signal on October 25, 1999, *is granted*. Parties shall file reply comments no later than November 8, 1999.

5. This action is taken under delegated authority pursuant to §§ 0.131 and 0.331 of the Commission's rules.

Federal Communications Commission.

Herb Zeiler,

Deputy Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 99–28796 Filed 11–3–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 991008273–9273–01; I.D. 062399B]

RIN 0648–AK89

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Amendment 9

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 9 to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (Amendment 9). For Gulf migratory group king mackerel, this rule would establish a moratorium on issuance of gillnet endorsements that would include eligibility criteria and restrictions on transferability of endorsements; restrict the area in which the gillnet fishery could operate; reallocate the eastern zone quota between the Florida east coast and Florida west coast subzones; and divide the Florida west coast subzone into northern and southern subzones with respective quotas. This rule also would allow retention and sale of cut-off (damaged) king and Spanish mackerel that are greater than the minimum size limits and possessed within the trip limits. The intended effect of this rule would be to protect king and Spanish mackerel from overfishing and maintain healthy stocks while still allowing catches by important commercial and recreational fisheries.

DATES: Comments must be received at the appropriate address or fax number, (see ADDRESSES), no later than 5:00 p.m., eastern standard time, on December 20, 1999.

ADDRESSES: Written comments on the rule should be sent to Steve Branstetter, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727–570–5583. Comments will not be accepted if submited via e-mail or Internet.

Comments regarding the collection-of-information requirements contained in this rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Copies of Amendment 9, which includes an environmental assessment and a regulatory impact review (RIR), and copies of a minority report submitted by one Gulf Council member may be obtained from the Gulf of Mexico Fishery Management Council, Suite 1000, 3018 U.S. Highway 301 North, Tampa, FL 33619; Phone: 813–228–2815; Fax: 813-225-7015; E-mail: gulf.council@noaa.gov; or from the South Atlantic Fishery Management Council, Southpark Building, One Southpark Circle, Suite 306, Charleston, SC 29407–4699; Phone: 843–571–4366; Fax: 843–769–4520; E-mail: safmc@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, 727–570–5305.

SUPPLEMENTARY INFORMATION: The fisheries for coastal migratory pelagic resources are managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared jointly by the Gulf of Mexico Fishery Management Council and the South Atlantic Fishery Management Council (Councils), approved by NMFS, and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Hook-and-Line Fishery - Florida West Coast Subzone

To prevent disproportionate commercial harvest of Gulf group king mackerel by northwest and southwest components of the hook-and-line fishery, this rule proposes to subdivide the Florida west coast subzone and establish separate quotas for the proposed northern and southern subzones described here. The southern boundary of the southern subzone would change along with the seasonal boundaries that separate the Gulf and Atlantic migratory groups of king mackerel.

The southern subzone would extend from the Lee/Collier County line to the Monroe/Dade County line (i.e., off Collier and Monroe Counties) from November 1 through March 31, and from the Lee/Collier County line to the Collier/Monroe County line (i.e., off Collier County) from April 1 through October 31. The northern subzone would extend from the Alabama/Florida boundary to the Lee/Collier County line year-round.

NMFS would establish a quota for the proposed northern subzone by allocating 7.5 percent of the eastern zone quota to the northern subzone. NMFS would allocate the remaining portion (92.5 percent) of the eastern zone quota according to percentages prescribed in the FMP (i.e., 50 percent each to the Florida east coast subzone and southern west coast subzone, the latter being divided equally between harvesters using hook-and-line gear and run-around gillnets). This proposed measure would reallocate the eastern zone quota between the Florida east and west coast subzones from the current east/west ratio of 50/50 to 46.25/53.75, respectively. Existing and proposed quotas of Gulf group king mackerel for the Florida east and west coast subzones are listed here based on the current eastern zone quota level of 2,340,000 lb (1,061,406 kg).

QUOTAS

SUBZONE	CURRENT		PROPOSED	
	lb	kg	lb	kg
East Coast	1,170,000	530,703	1,082,250	490,900
West Coast	1,170,000	530,703	1,257,750	570,506
Hook-and-Line	585,000	265,352		
Run-Around Gillnet	585,000	265,352		
Northern Subzone				
Hook-and-Line			175,500	79,606
Southern Subzone			1,082,250	490,900
Hook-and-Line			541,125	245,450
Run-Around Gillnet			541,125	245,450

The Councils consider the proposals to subdivide the Florida west coast subzone into separate northern and southern subzones and to provide each a quota for vessels using hook-and-line gear a reasonable approach to allocate equitably the eastern zone quota between the fishery components harvesting in the northern and southern subzones. Separate quotas would prevent the northwest Florida Panhandle fishery from taking all or

most of the quota before Gulf group king mackerel migrate south to overwintering grounds off southwest Florida and the Florida Keys where almost all of the Florida west coast harvest has been taken historically. When this occurred previously, NMFS published an emergency rule (60 FR 7134, February 7, 1995) that added 300,000 lb (136,078 kg) to the quota and reopened the fishery during the 1994/95 fishing year under a 125–fish trip limit to avert a potential socioeconomic crisis for southwest Florida fishing communities. Consequently, with no other viable alternatives available to avoid a future recurrence of this situation, the Councils believe that the proposals are necessary until more practicable and less cumbersome management options become available.

Run-Around Gillnet Fishery—Florida West Coast Subzone

To prevent expansion of the run-around gillnet fishery for Gulf group king mackerel in the southern Florida west coast subzone, this rule proposes several measures while the Councils consider future management strategies. A king mackerel gillnet endorsement, issued by NMFS with some commercial vessel permits for king mackerel, is required to harvest king mackerel under the run-around gillnet quota. This rule proposes that gillnet endorsements not be issued to new applicants, be reissued only to those vessels that meet the stipulated criteria, and be transferred only to another vessel owned by the same entity or to immediate family members (i.e., husband, wife, son, daughter, brother, sister, father, or mother) to allow for gillnet harvest by historical participants during the proposed moratorium.

Under the moratorium, an initial king mackerel gillnet endorsement would be issued only if: (1) The vessel owner was the owner of a vessel with a commercial mackerel permit with a gillnet endorsement on or before October 16, 1995 (the control date for the Gulf and South Atlantic king mackerel fisheries); and (2) the vessel owner was the owner of a vessel that had gillnet landings of Gulf migratory group king mackerel in one of the two fishing years, July 1, 1995, through June 30, 1996, or July 1, 1996, through June 30, 1997. Such landings must have been documented by NMFS or by the Florida Department of Environmental Protection trip ticket system as of December 31, 1997. Only landings when a vessel had a valid commercial permit for king mackerel with a gillnet endorsement, and only landings that were harvested, landed, and sold in compliance with State and Federal regulations may be used to establish eligibility. NMFS would not issue an owner more initial king mackerel gillnet endorsements under the moratorium than the number of vessels with king mackerel gillnet endorsements that the owner owned simultaneously on or before the control date, October 16, 1995.

Under the moratorium, NMFS would also issue a gillnet endorsement to the owner of a vessel that received a commercial king mackerel permit through transfer, between March 4, 1998, and the date of publication of the final rule implementing the moratorium, from a vessel that met the eligibility requirements for an initial gillnet endorsement as specified under the moratorium.

Under the proposed moratorium, an owner or operator of a vessel that does not have a king mackerel gillnet endorsement on the date the final rule implementing Amendment 9 is published in the **Federal Register** could submit an application to NMFS to obtain a king mackerel gillnet endorsement within 90 days from that date. NMFS would make application forms available. After the 90-day period has expired, NMFS would no longer accept applications for king mackerel gillnet endorsements other than renewal applications.

Also, to prevent further expansion of the gillnet fishery, this rule proposes to restrict the operational area within which qualified vessels may fish under the run-around gillnet quota to the proposed southern subzone. Currently, run-around gillnets may be used to harvest Gulf group king mackerel under prescribed trip limits anywhere in the exclusive economic zone (EEZ) from off Texas through the seasonal boundaries of the Florida east coast subzone.

The Councils have determined that the moratorium is necessary during an interim period while the Councils determine the biological, fishery management, socioeconomic, and state/Federal impacts of maintaining or phasing out this fishery segment. The Councils believe that limiting the number of participants in the gillnet fishery is imperative to prevent expansion, overcapitalization, and quota overruns. Issuing permits only to owners of vessels that can demonstrate landings under the run-around gillnet quota during the designated fishing years and allowing transfer of gillnet endorsements only to family members would restrict participation to businesses and families that historically have been dependent on this fishery. Restricting the use of run-around gillnets to the southern subzone would also decrease the opportunity for user conflicts and the likelihood of interactions with northern right whales calving and nursing off the northeast Florida (east coast subzone) overwintering grounds.

Possession and Sale of Cut-Off Fish

For both the Atlantic and Gulf groups of king and Spanish mackerel, this rule proposes to allow the retention and sale of cut-off (damaged) fish that meet the minimum size limit and that are taken and possessed within the established commercial trip limits. This would not affect the current regulatory provision that allows a maximum of five cut-off (damaged) king mackerel to be possessed in the Gulf, Mid-Atlantic, or South Atlantic EEZ on vessels operating under commercial trip limits. Such fish are not counted against the trip limits, are not subject to the minimum size limit, and may not be sold or purchased.

The Councils recommended these changes after reconsidering the regulations for cut-off king mackerel implemented under Amendment 8 (63 FR 10561, March 4, 1998) to the FMP. Because both cut-off king and Spanish mackerel have food and market value, the Councils now believe that the regulations should allow for their possession, landing, and sale, provided that the cut-off fish comply with the minimum size limits and that fishermen do not exceed applicable trip limits. Such changes potentially will increase revenue, decrease wastage, and increase accuracy of fishing mortality estimates. Nevertheless, the Councils realize that such benefits may not be realized in situations where fishermen may have the opportunity to discard cut-off fish, replacing them with more valuable whole fish that would be retained and sold under the trip limits.

Management Measures Proposed by the Councils for Gulf Group King Mackerel Not Included in this Proposed Rule

Two management actions proposed by the Councils for Gulf group king mackerel are not included in this proposed rule because they have already been implemented by another rule. These two management measures are a 3,000–lb (1,361–kg) trip limit for vessels fishing under the commercial quota in the western zone (Texas through Alabama) and an increase in the minimum size limit from 20 inches to 24 inches (50.8 cm to 61.0 cm). These measures were published as part of a proposed rule (64 FR 29622, June 2, 1999) implementing mackerel specifications under the FMP framework procedure for adjusting management measures and were subject

to public comment. After considering the public comment, NMFS approved those measures and implemented them through a final rule (64 FR 45457, August 20, 1999). Consequently, to avoid redundancy and confusion, these two measures and associated text are not included in this proposed rule.

Change Proposed by NMFS

NMFS is proposing a clarification of one aspect of the Council's proposal in Amendment 9 regarding eligibility for a king mackerel gillnet endorsement under the proposed moratorium. As an exception to the basic eligibility requirements, the Council proposed that a vessel that received a king mackerel permit through transfer, between February 12, 1996, and the date of publication of the final rule implementing these regulations, from a vessel that was qualified for an initial king mackerel gillnet endorsement would qualify for an initial king mackerel gillnet endorsement. The Council selected the date of February 12, 1996, because that was the end of the 1995/1996 fishing season. However, king mackerel permits were not transferable until March 4, 1998. Therefore, in § 622.4(o)(2) of this proposed rule, NMFS has modified the date concerning king mackerel permit transfer from February 12, 1996, to March 4, 1998, to accurately reflect the period during which king mackerel permits could have been transferred.

Classification

The Administrator, Southeast Region, NMFS, has determined on October 7, 1999, that Amendment 9 is necessary for the conservation and management of the FMP and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Chief Counsel for Regulation of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The proposed rule contains provisions to change the allocation of Gulf group king mackerel from the present formula of 50 percent for each coast of Florida to 46.15 percent east coast and 53.85 percent west coast; to establish Florida west coast hook-and-line subzone percentage allocations based on historical catches in the subzones; to establish a moratorium on the issuance of new king mackerel gillnet endorsements for the Florida west coast; and, to allow retention and sale of ''cut off'' king and Spanish mackerel (''cut off'' refers to fish that are damaged by predators while being landed). In aggregate these proposals could potentially affect a maximum of 987 permitted commercial small business entities that operate in the areas where the proposed actions will be effective. However, the economic effects will be small. The proposal to reallocate king mackerel for the east and west coasts of Florida will result in a maximum redistribution of about 118,000 lb. (53,524 kg) of king mackerel worth about $147,000 in favor of the west coast fishermen. The official west coast allocation of 1,170,000 lb. (530,703 kg) has an exvessel value of about $1.46 million, so there would be roughly a 10 percent revenue effect if the redistribution actually occurs. However, this effect will not be realized because the west coast historically exceeds its quota by an amount well in excess of the proposed reallocation. Hence, the redistribution of quota will not likely result in an increase in revenue for the west coast fishermen. For the east coast fishermen, the change will also likely be small or zero because other restrictive rules have recently been implemented for the east coast. According to information contained in the Regulatory Impact Review (RIR), these restrictive rules effectively curtail east coast landings by an amount greater than implied by the redistribution of landings, and landings for the most recent fishing season were 267,000 lb. (121,109 kg) below quota. Accordingly, the quota would not likely be met if the reallocation goes into effect because the implied reallocation is 117,000 lb. (53,070 kg) or less than half the current quota shortfall. The proposal for an official percentage allocation of the Florida west coast hook-and-line quota by subzone will have no effect because the allocations would be set based on historical catches in the subzones. The moratorium on the issuance of new king mackerel gillnet endorsements for the Florida west coast is expected to have no effect or only a minor effect on landings because the current gillnet quota for king mackerel is met very early in the season. Also, the RIR indicates that the gillnet fishery is not very profitable at the current time due to restrictive trip limits and the current level of TAC and subquotas. Gillnet gear tends to become more profitable when trip limits are high enough to make that gear efficient. Hence, few, if any, new entrants would be expected under the present scenario. However, as the fishery continues to recover, the TAC would be expected to rise and some of the current trip limit regulations could be relaxed to the point where the use of gillnet gear becomes more profitable and additional entry might be expected. The current number of gillnet operations could take their portion of a higher TAC with larger trip limits and the Councils do not desire to encourage additional fishing effort. Accordingly, and as a precautionary measure to discourage new effort, a moratorium on new gillnet endorsements has been proposed. The provision to allow the retention of ''cut off'' king and Spanish mackerel will have little or no impact because current rules allow the retention of five ''cut off'' fish in addition to existing trip limits, and the new provision merely allows the retention of additional ''cut off'' fish if the fishermen choose to do so. However, this would occur only when the trip limits would not otherwise be met because the ''cut off'' fish have a reduced market value and any number over five would count against the trip limit. Hence, there is not much incentive to retain these fish, and the expected result is a very minor, approaching nil, increase in revenue attributed to the retention of more than five ''cut off'' fish for the few number of trips that might be affected. The overall conclusion is that the proposed rule, if implemented, will not have a significant impact on a substantial number of small business entities, and this conclusion applies to the actions considered singly or in aggregate.

As a result, a regulatory flexibility analysis was not required.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

This rule includes a collection-of-information requirement regarding applications for an initial king mackerel gillnet endorsement. That collection of information is currently approved under OMB control no. 0648-0205 and its public reporting burden is estimated at 20 minutes per response. This reporting burden estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information.

Public comment is sought regarding whether this proposed collection-of-information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these, or any other aspects of the collection of information, to NMFS and OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: October 29, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 622.4, paragraphs (a)(2)(ii) through (a)(2)(iv), the first sentence of paragraph (g), and paragraph (o) are revised to read as follows:

§ 622.4 Permits and fees.

(a) * * *

(2) * * *

(ii) *Gillnets for king mackerel in the southern Florida west coast subzone.* For a person aboard a vessel to use a run-around gillnet for king mackerel in the southern Florida west coast subzone (see § 622.42(c)(1)(i)(A)(*3*)), a commercial vessel permit for king mackerel with a gillnet endorsement must have been issued to the vessel and must be on board. See paragraph (o) of this section regarding a moratorium on endorsements for the use of gillnets for king mackerel in the southern Florida west coast subzone and restrictions on transferability of king mackerel gillnet endorsements.

(iii) *King mackerel.* For a person aboard a vessel to be eligible for exemption from the bag limits and to fish under a quota for king mackerel in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ, a commercial vessel permit for king mackerel must have been issued to the vessel and must be on board. To obtain or renew a commercial vessel permit for king mackerel valid after April 30, 1999, at least 25 percent of the applicant's earned income, or at least $10,000, must have been derived from commercial fishing (i.e., harvest and first sale of fish) or from charter fishing during one of the 3 calendar years preceding the application. See paragraph (q) of this section regarding a moratorium on commercial vessel permits for king mackerel, initial permits under the moratorium, transfers of permits during the moratorium, and limited exceptions to the earned income or gross sales requirement for a permit.

(iv) *Spanish mackerel.* For a person aboard a vessel to be eligible for exemption from the bag limits and to fish under a quota for Spanish mackerel in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ, a commercial vessel permit for Spanish mackerel must have been issued to the vessel and must be on board. To obtain or renew a commercial vessel permit for Spanish mackerel valid after April 30, 1999, at least 25 percent of the applicant's earned income, or at least $10,000, must have been derived from commercial fishing (i.e., harvest and first sale of fish) or from charter fishing during one of the 3 calendar years preceding the application.

* * * * *

(g) *Transfer.* A vessel permit, license, or endorsement or dealer permit issued under this section is not transferable or assignable, except as provided in paragraph (m) of this section for a commercial vessel permit for Gulf reef fish, in paragraph (n) of this section for a fish trap endorsement, in paragraph (o) of this section for a Gulf king mackerel gillnet endorsement, in paragraph (p) of this section for a red snapper license, in paragraph (q) of this section for a king mackerel permit, in § 622.17(c) for a commercial vessel permit for golden crab, or in § 622.18(e) for a commercial vessel permit for South Atlantic snapper-grouper. * * *

* * * * *

(o) *Moratorium on endorsements for the use of gillnets for king mackerel in the southern Florida west coast subzone.* (1) Effective on the date of publication of the final rule that contains this paragraph (o)(1), an initial king mackerel gillnet endorsement will be issued only if—

(i) The vessel owner was the owner of a vessel with a commercial mackerel permit with a gillnet endorsement on or before October 16, 1995; and

(ii) The vessel owner was the owner of a vessel that had gillnet landings of Gulf migratory group king mackerel in one of the two fishing years, July 1, 1995 through June 30, 1996 or July 1, 1996 through June 30, 1997. Such landings must have been documented by NMFS or by the Florida Department of Environmental Protection trip ticket system as of December 31, 1997. Only landings when a vessel had a valid commercial permit for king mackerel with a gillnet endorsement and only landings that were harvested, landed, and sold in compliance with state and Federal regulations may be used to establish eligibility.

(2) Paragraphs (o)(1)(i) and (o)(1)(ii) of this section notwithstanding, the owner of a vessel that received a commercial king mackerel permit through transfer, between March 4, 1998, and the date of publication of the final rule that contains this paragraph (o)(2), from a vessel that met the requirements in paragraphs (o)(1)(i) and (o)(1)(ii) also qualifies for an initial king mackerel gillnet endorsement.

(3) To obtain an initial king mackerel gillnet endorsement under the moratorium, an owner or operator of a vessel that does not have a king mackerel gillnet endorsement on the date of publication of the final rule that contains this paragraph (o)(3) must submit an application to the RD, postmarked or hand delivered not later than 90 days after the date of publication of the final rule that contains this paragraph (o)(3). Except for applications for renewals of king mackerel gillnet endorsements, no applications for king mackerel gillnet endorsements will be accepted after the date that is 90 days after the date of publication of the final rule that contains this paragraph (o)(3). Application forms are available from the RD.

(4) The RD will not issue an owner more initial king mackerel gillnet endorsements under the moratorium than the number of vessels with king mackerel gillnet endorsements that the owner owned simultaneously on or before October 16, 1995.

(5) An owner of a vessel with a king mackerel gillnet endorsement issued under this moratorium may transfer that endorsement upon a change of ownership of a permitted vessel with such endorsement from one to another of the following: Husband, wife, son, daughter, brother, sister, mother, or father. Such endorsement also may be transferred to another vessel owned by the same entity.

(6) A king mackerel gillnet endorsement that is not renewed or that is revoked will not be reissued. An endorsement is considered to be not renewed when an application for renewal is not received by the RD within 1 year of the expiration date of the permit that includes the endorsement.

* * * * *

3. In § 622.38, paragraph (g) is revised to read as follows:

§ 622.38 Landing fish intact .

* * * * *

(g) Cut-off (damaged) king or Spanish mackerel that comply with the minimum size limits in § 622.37(c)(2) and (c)(3), respectively, and the trip limits in § 622.44(a) and (b), respectively, may be possessed in the Gulf, Mid-Atlantic, or South Atlantic EEZ on, and offloaded ashore from, a vessel that is operating under the respective trip limits. Such cut-off fish also may be sold. A maximum of five

additional cut-off (damaged) king mackerel, not subject to the size limits or trip limits, may be possessed or offloaded ashore but may not be sold or purchased and are not counted against the trip limit.

* * * * *

4. In § 622.41, paragraphs (c)(1)(ii) and (c)(2)(iv) are revised to read as follows:

§ 622.41 Species specific limitations.

* * * * *

(c) * * *

(1) * * *

(ii) King mackerel, Gulf migratory group—hook-and-line gear and, in the southern Florida west coast subzone only, run-around gillnet. (See § 622.42(c)(1)(i)(A)(*3*) for a description of the southern Florida west coast subzone.)

* * * * *

(2) * * *

(iv) *Exception for king mackerel in the Gulf EEZ.* The provisions of this paragraph (c)(2)(iv) apply to king mackerel taken in the Gulf EEZ and to such king mackerel possessed in the Gulf. Paragraph (c)(2)(iii) of this section notwithstanding, a person aboard a vessel that has a valid commercial permit for king mackerel is not subject to the bag limit for king mackerel when the vessel has on board on a trip unauthorized gear other than a drift gillnet in the Gulf EEZ, a long gillnet, or a run-around gillnet in an area other than the southern Florida west coast subzone. Thus, the following applies to a vessel that has a commercial permit for king mackerel:

(A) Such vessel may not use unauthorized gear in a directed fishery for king mackerel in the Gulf EEZ.

(B) If such a vessel has a drift gillnet or a long gillnet on board or a run-around gillnet in an area other than the southern Florida west coast subzone, no king mackerel may be possessed.

(C) If such a vessel has unauthorized gear on board other than a drift gillnet in the Gulf EEZ, a long gillnet, or a run-around gillnet in an area other than the southern Florida west coast subzone, the possession of king mackerel taken incidentally is restricted only by the closure provisions of § 622.43(a)(3) and the trip limits specified in § 622.44(a). See also paragraph (c)(4) of this section regarding the purse seine incidental catch allowance of king mackerel.

* * * * *

5. In § 622.42, paragraphs (c)(1)(i)(A)(*1*) through (c)(1)(i)(A)(*3*) are revised to read as follows:

§ 622.42 Quotas.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(A) * * *

(*1*) *Florida east coast subzone*—1,082,250 lb (490,900 kg).

(*2*) *Florida west coast subzones*—(*i*) *Southern*—1,082,250 lb (490,900 kg), which is further divided into a quota of 541,125 lb (245,450 kg) for vessels fishing with hook-and-line and a quota of 541,125 lb (245,450 kg) for vessels fishing with run-around gillnets.

(*ii*) *Northern*—175,500 lb (79,606 kg).

(*3*) *Description of Florida subzones.* The Florida east coast subzone is that part of the eastern zone north of 25°20.4' N. lat., which is a line directly east from the Dade/Monroe County, FL, boundary. The Florida west coast subzone is that part of the eastern zone south and west of 25°20.4' N. lat. The Florida west coast subzone is further divided into southern and northern subzones. From November 1 through March 31, the southern subzone is that part of the Florida west coast subzone that extends south and west from 25°20.4' N. lat. to 26°19.8' N. lat., a line directly west from the Lee/Collier County, FL boundary (i.e., the area off Collier and Monroe Counties). From April 1 through October 31, the southern subzone is that part of the Florida west coast subzone that is between 26°19.8' N. lat. and 25°48' N. lat., which is a line directly west from the Monroe/Collier County, FL, boundary (i.e., off Collier County). The northern subzone is that part of the Florida west coast subzone that is between 26°19.8' N. lat. and 87°31'06'' W. long., which is a line directly south from the Alabama/Florida boundary.

* * * * *

6. In § 622.44, paragraphs (a)(2)(i) and (a)(2)(ii) are revised to read as follows:

§ 622.44 Commercial trip limits.

* * * * *

(a) * * *

(2) * * *

(i) *Eastern zone-Florida east coast subzone.* In the Florida east coast subzone, king mackerel in or from the EEZ may be possessed on board or landed from a vessel for which a commercial permit for king mackerel has been issued, as required under § 622.4(a)(2)(iii), from November 1 each fishing year until the subzone's fishing year quota of king mackerel has been harvested or until March 31, whichever occurs first, in amounts not exceeding 50 fish per day.

(ii) *Eastern zone-Florida west coast subzone*—(A) *Gillnet gear.* (*1*) In the southern Florida west coast subzone, king mackerel in or from the EEZ may be possessed on board or landed from a vessel for which a commercial permit with a gillnet endorsement has been issued, as required under § 622.4(a)(2)(ii), from July 1, each fishing year, until a closure of the southern Florida west coast subzone's fishery for vessels fishing with run-around gillnets has been effected under § 622.43(a)—in amounts not exceeding 25,000 lb (11,340 kg) per day.

(*2*) In the southern Florida west coast subzone:

(*i*) King mackerel in or from the EEZ may be possessed on board or landed from a vessel that uses or has on board a run-around gillnet on a trip only when such vessel has on board a commercial permit for king mackerel with a gillnet endorsement.

(*ii*) King mackerel from the southern west coast subzone landed by a vessel for which such commercial permit with endorsement has been issued will be counted against the run-around gillnet quota of § 622.42(c)(1)(i)(A)(*2*)(*i*).

(*iii*) King mackerel in or from the EEZ harvested with gear other than run-around gillnet may not be retained on board a vessel for which such commercial permit with endorsement has been issued.

(B) *Hook-and-line gear.* In the Florida west coast subzone, king mackerel in or from the EEZ may be possessed on board or landed from a vessel with a commercial permit for king mackerel, as required by § 622.4(a)(2)(iii), and operating under the hook-and-line gear quotas in § 622.42(c)(1)(i)(A)(*2*)(*i*) or (c)(1)(i)(A)(*2*)(*ii*):

(*1*) From July 1, each fishing year, until 75 percent of the respective northern or southern subzone's hook-and-line gear quota has been harvested—in amounts not exceeding 1,250 lb (567 kg) per day.

(*2*) From the date that 75 percent of the respective northern or southern subzone's hook-and-line gear quota has been harvested, until a closure of the respective northern or southern subzone's fishery for vessels fishing with hook-and-line gear has been effected under § 622.43(a)—in amounts not exceeding 500 lb (227 kg) per day.

* * * * *

7. In § 622.45, paragraph (h) is revised to read as follows:

§ 622.45 Restrictions on sale/purchase.

* * * * *

(h) *Cut-off (damaged) king or Spanish mackerel.* A person may not sell or purchase a cut-off (damaged) king or Spanish mackerel that does not comply with the minimum size limits specified in § 622.37(c)(2) or (c)(3), respectively, or that is in excess of the trip limits

specified in § 622.44(a) or (b), respectively.

[FR Doc. 99–28938 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 102699B]

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; Amendment 58 to Revise the Chinook Salmon Savings Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 58 to the Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (FMP) for Secretary of Commerce review. The intended effect of this amendment is to reduce bycatch of chinook salmon by trawl fisheries in the Bering Sea Aleutian Islands Area (BSAI).

DATES: Comments on Amendment 58 must be submitted by January 3, 2000.

ADDRESSES: Comments on Amendment 58 should be submitted to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Comments will not be accepted if submitted by e-mail or Internet. Copies of Amendment 58 and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis prepared for this action may be obtained from the same address or by calling the Alaska Region, NMFS, at 907–586–7228.

FOR FURTHER INFORMATION CONTACT: Shane Capron, 907–586–7228 or shane.capron@noaa.gov.

SUPPLEMENTARY INFORMATION: To reduce bycatch of chinook salmon by trawl fisheries in the BSAI, the Council recommended changes to both the FMP and the regulations implementing it. Amendment 58 would revise the FMP's management measures for chinook salmon by (1) removing the prohibited species catch (PSC) limit of 48,000 chinook salmon from the FMP and replacing it with a framework that would allow NMFS to establish the chinook PSC limit through regulations; and (2) revising the boundaries of the chinook salmon savings area (CHSSA).

The Council also recommended that NMFS use the framework proposed in Amendment 58 to reduce the chinook PSC limit from 48,000 to 29,000 salmon over a 4-year period, to implement year-round accounting of chinook salmon bycatch in the pollock fishery beginning on January 1 of each year, to revise the boundaries of the CHSSA, and to set new CHSSA closure dates.

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that each Regional Fishery Management Council submit any fishery management plan (FMP) or FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment, immediately publish a notification in the **Federal Register** that the amendment is available for public review and comment. NMFS will consider all public comments received during the comment period in determining whether to approve the FMP or amendment. Public comments on Amendment 58 must be received by January 3, 2000 to be considered by NMFS in the decision to approve/disapprove this amendment. After evaluating Amendment 58 pursuant to the Magnuson-Stevens Act, NMFS will publish a proposed rule to implement the amendment and the related regulatory changes the Council recommended in the **Federal Register** for public comment. Public comments on the proposed rule must be received by January 3, 2000, the end of the comment period for this notice of availability on Amendment 58, to be considered in the approval/disapproval decision on the amendment. Comments received after that date will not be considered in the approval/disapproval decision on the amendment. All comments received on the amendment or on the proposed rule will be responded to in the preamble to the final rule.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 29, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–28937 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 64, No. 213

Thursday, November 4, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Summer Food Service Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service announces its intention to request the Office of Management and Budget's (OMB) review of the information collections related to the Summer Food Service Program, OMB number 0584–0280.

DATES: Comments on this notice must be received by January 3, 2000 to be assured of consideration.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Ways to enhance the quality, utility and clarity of the information to be collected; and (d) Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology. Comments and requests for copies of this information collection may be sent to Mr. Terry Hallberg, Chief, Program Analysis and Monitoring Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 1006, Alexandria, Virginia 22302.

All responses to this Notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

FOR FURTHER INFORMATION: Contact Mr. Terry Hallberg at (703) 305–2600.

SUPPLEMENTARY INFORMATION:

Title: Summer Food Service Program.

OMB Number: 0584–0280.

Expiration Date: 12/31/99.

Type of Request: Extension of a currently approved collection.

Abstract: Section 13 of the National School Lunch Act (NSLA), as amended, authorizes the Summer Food Service Program. The Summer Food Service Program provides assistance to States to initiate and maintain nonprofit food service programs for needy children during the summer months and at other approved times. The food service to be provided under the Summer Food Service Program is intended to serve as a substitute for the National School Lunch Program and the School Breakfast Program during times when school is not in session. Under the program, a sponsor receives reimbursement for serving nutritious, well-balanced meals to eligible children at food service sites. Subsection 13(m) of the NSLA directs that ''States and service institutions participating in programs under this section shall keep accounts and records as may be necessary to enable the Secretary to determine whether there has been compliance with this section and the regulations hereunder. Such accounts and records shall be available at any reasonable time for inspection and audit by representatives of the Secretary and shall be preserved for such period of time, not in excess of five years, as the Secretary determines necessary.'' Pursuant to this provision, the Food and Nutrition Service has issued Part 225 of Title 7 of the Code of Federal Regulations to implement the Summer Food Service Program.

Respondents: State agencies, sponsors, food service management companies, camps, households.

Estimated Number of Respondents: 50 State agencies, 3,616 sponsors, 308 food service management companies, 3,037 camps and other sites, and 69,722 households.

Average Number of Responses per Respondent: The number of responses is estimated to be 4 responses per respondent per year.

Estimated Total Annual Burden on Respondents: The recordkeeping burden hours are estimated at 18,949, and the reporting burden hours are estimated at 306,842, for an estimated total annual burden of 325,791.

Dated: October 25, 1999.

Samuel Chambers, Jr.,

Administrator.

[FR Doc. 99–28831 Filed 11–3–99; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Forest Service

West Mountain North Project, Boise National Forest, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare Environmental Impact Statement.

SUMMARY: The Cascade Range District of the Boise National Forest will prepare an environmental impact statement (EIS) for an integrated resource management project in the North Fork of the Payette River. The entire project area is within watersheds that drain directly into Cascade Reservoir or into the North Fork Payette River above Cascade Reservoir. The project area is located 12 miles northwest of Cascade, Idaho, and about 100 miles north of Boise, Idaho.

The agency invites written comments and suggestions on the scope of the analysis. The agency also hereby gives notice of environmental analysis decisionmaking process that will occur on the proposal so interested and affected people are aware of how they may participate and contribute to the final decision. At this time, no public meetings to discuss the project are planned.

Proposed Action: Four primary objectives have been identified to the project: (1) reduce current and future stand susceptibility to western spruce budworm; (2) improve long-term stand growth to or near levels indicative of healthy, sustainable forests; (3) implement the Total Maximum Daily Load (TMDL) Plan by reducing by 30 percent the total phosphorus delivery from existing sources within the project area, and resulting in an no net increase of total phosphorus from proposed activities; and; (4) contribute to the local economy through the supply of forest

products and associated employment opportunities.

The proposed action would treat a total of 1,659 acres in the 10,048-acre project area. The project area itself encompasses all of the 2,800-acre Poison Creek Management Area 52A, and a portion of the 19,069-acre West Mountain North Management Area 52. An estimated 12.0 MMBF of timber would be harvested using ground-based (827 acres), skyline (319 acres), and helicopter (513 acres) yarding systems. The proposed action would employ variety of silvicutural prescriptions including commercial thin (148 acres), improvement cut (512 acres), sanitation/salvage (340 acres), individual tree selection (18 acres), seed cut shelterwood (224 acres), and final removal shelterwood (417 acres). The existing transportation system would be improved to facilitate long haul and reduce sedimentation with individual sections of 17.9 miles of road being reconstructed. An estimated 0.8 mile of specified road and 0.4 mile of temporary road would be constructed to facilitate harvest. In addition, 4.9 miles of road not needed for the long-term management of the area would be decommissioned, and, 1.8 miles closed year-round and 1.1 miles closed seasonally (September 15 to June 1) to motorized use with the exception of snowmobiles and administrative use.

Management direction in the Boise National Forest Land and Resource Management Plan (LRMP) of the 2,800-acre Poison Creek Management Area (MA) 52A was developed in anticipation of the proposed ValBois Resort. The VlBois project, which was still in its conceptual stage when the LRMP was published in 1990, included numerous developments associated with skiing on Forest Service administered lands with in MA 52A. Due to a number of circumstances, the ValBois project is no longer being considered. Although a similar proposal, WestRock, is currently under consideration on adjacent private and State-owned lands, WestRock officials have stated they have no intention of requesting a permit to operate on Forest Service administered lands. Nonetheless, the LRMP direction for MA 52A still reflects ValBois as a potential activity and would require amending prior to implementation of the proposed action. Given the ongoing LRMP revision and the anticipated timeframes of the effort, proposed amendments would be specific to the West Mountain North Project. Future management of the area would be deferred to that prescribed in the revised LRMP. The following LRMP amendments are included as a part of the proposed action:

Amend the Visual Quality Objectives on page IV–438 of the LRMP to foreground retention and middleground partial retention for the West Mountain Cascade Reservoir Road No. 422, and, middleground partial retention for the Cascade Reservoir Area. Visual Quality Objectives specific to Proposed Developments associated with the ValBois Resort would not apply to this project.

Amend the standard on page IV–439 of the LRMP that limits timber harvesting to allow management activities, including timber harvest, proposed with the West Mountain North Project.

Preliminary Issues: Preliminary concerns with the proposed action include: (1) impacts on phosphorus delivery to Cascade Reservoir; (2) economic returns of the project given projected implementation costs and revenues; (3) impacts on the visual quality of the area as seen from sensitive viewpoints, and (4) potential impacts on boreal owl.

Possible Alternative to the Proposed Action: Two alternatives to the proposed action have been discussed thus far: (1) a no action alternative, and, (2) an alternative that would increase the number of acres treated. Other alternatives may be developed as issues are identified and information received.

Decision to be Made: The Boise National Forest Supervisor will decide the following: Should roads be built and timber harvested within the West Mountain North Project Area at this time, and if so, where within the project area, and how many miles of road should be built; and which stands should be treated and what silvicultural systems should be use? What mitigation/watershed enhancement measures should be applied to the project? Should the decommissioning of portions of roads Nos. 186H1, 186C, 186A3, and other existing roads be implemented at this time? Should the LRMP be amended to allow proposed activities in MA 52A?

DATES: Written comments concerning the proposed project and analysis are encouraged and should be postmarked on or before December 6, 1999.

ADDRESSES: Comments should be addressed to Keith Dimmett, Cascade Ranger District, P.O. Box 696, Cascade, ID 83611. Comments received in response to this request will be available for public inspection and will be released in their entirety if requested pursuant to the Freedom of Information Act.

FOR FURTHER INFORMATION CONTACT: Further information can be obtained from Keith Dimmett at the address mentioned above or by calling 208–382–7433.

SCHEDULE: Draft Environmental Impact Statement (DEIS), February 2000. Final Environmental Impact Statement (FEIS), May 2000.

SUPPLEMENTARY INFORMATION: The NFMA planning for this project was initiated in the fall of 1997 with the Cascade Reservoir Ecosystem Analysis at the Watershed Scale. In addition to public announcements in The Idaho Statesman (May 14, 1998) and The Long Valley Advocate (May 13, 1998), a scoping package describing a similar proposed action was mailed to 50 individuals and/or groups. A predecisional environmental assessment (EA) was distributed for a 30-day comment period in November 1998. Five letters were received commenting on the EA. A Decision Notice and Finding of No Significant Impacts was distributed in February 1999. The Forest Supervisor withdrew that decision in April 1999 citing recent judicial interpretations of NEPA at the rationale for preparation of a DEIS.

A large portion of an unroaded area, roughly 5,300 acres in size, occurs within the southern portion of the West Mountain North Project Area. Although this area was not identified in the roadless inventory completed in preparation of the LRMP in 1990, it was identified in September 1999 during the ongoing LRMP revision effort. While the proposed action does not include any management activities within this unroaded area, other alternatives developed over the course of this analysis may include timber harvest activities within this area.

The comment period on the DEIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register.**

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings relates to public participation in the environmental review process. First, reviewers of the DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the DEIS stage but are not raised until after completion of the FEIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803

F.2d 1016, 1002 (9th Cir., 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of DEIS 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the FEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Responsible Official: David D. Rittenhouse, Forest Supervisor, Boise National Forest, 1249 South Vinnell Way, Suite 200, Boise, ID 83709.

Dated: October 28, 1999.

W. Wayne Patton,

Range, Watershed, Air, Minerals, Wildlife, and Fisheries Officer.

[FR Doc. 99–28846 Filed 11–3–99; 8:45 am]

BILLING CODE 3410–12–M

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Washington Provincial Advisory Committee Notice

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Washington Provincial Advisory Committee will meet on Wednesday, November 17, 1999, at the U.S. Fish and Wildlife Office, located at 510 Desmond Drive SE, Suite 102, Lacy, Washington. The meeting will begin at 9:30 a.m. and continue until 4:45 p.m. The purpose of the meeting is to: (1) Discuss Successful Natural Resources Conservation Service programs; (2) Present Late Successional Reserve Analyses; (3) Review the Committee Vision Statement; and (4) Provide for a Public Open Forum. All Southwest Washington Provincial Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. The ''open forum'' provides opportunity for the public to bring issues, concerns, and discussion topics to the Advisory Committee. The ''open forum'' is scheduled as part of agenda item (4) for this meeting. Interested speakers will need to register prior to the open forum period. The committee welcomes the public's written comments on committee business at any time.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Linda Turner, Public Affairs Specialist, at (360) 891–5195, or write Forest Headquarters Office, Gifford Pinchot National Forest, 10600 NE, 51st Circle, Vancouver, WA 98682.

Dated: October 27, 1999.

Peggy Kain,

Acting Forest Supervisor.

[FR Doc. 99–28944 Filed 11–3–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Intent To Extend a Currently Approved Form NRCS–FNM–141, Application for Payment

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 320 (60 FR 44978, August 29,1995) this announces the Natural Resources Conservation Service's (NRCS) intention to request an extension for and update a currently approved Form NRCS–FNM–141, Application for Payment.

DATES: Comments on this notice must be received by January 3, 2000 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Edward Biggers, Director, Management Services Division, Natural Resources Conservation Service , U.S. Department of Agriculture, 5601 Sunnyside Avenue, Stop 5460, Beltsville, MD 20705–5460, (202) 720–2162.

SUPPLEMENTARY INFORMATION:

Title: Application for Payment.

OMB Number: 0578–0018.

Expiration Date of Approval: Indefinite.

Type of Request: Extend and update a currently approved payment form.

Abstract: The Natural Resources Conservation Service is responsible for the administration of various conservation programs through NRCS delivery systems and assists land users to voluntarily develop plans and apply conservation measures for these programs.

The application for payment for these programs is submitted on the Application for Payment form whenever a conservation program producer (primarily farmers and ranchers) complete a conservation practice or measure as prescribed by their contract or agreement with the U. S. Department of Agriculture, NRCS.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Farmers and Ranchers, individuals or households.

Estimated Number of Respondents: 30,723.

Estimated Total Annual Burden on Respondents: 7681.

Copies of this information collection and repeated instructions can be obtained without charge from Edward Biggers, Director, Management Services Division, at (202) 720–2162.

Comments: Comments are invited on: (a) ways to enhance the quality, utility, and clarity of the information to be collected; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information and (c) ways to minimize the burden of the collection of information on those who are to respond. Comments may be sent to: Edward Biggers, Director, Management Services Division, U.S. Department of Agriculture, 5601 Sunnyside Avenue, Stop 5460, Beltsville, MD 20705–5460.

Dated: October 22, 1999.

P. Dwight Holman,

Deputy Chief for Management.

[FR Doc. 99–28834 Filed 11–3–99; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Indiana

AGENCY: Natural Resources Conservation Service (NRCS), USDA.

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Indiana for review and comment.

SUMMARY: It is the intention of NRCS in Indiana to issue new conservation practice standards in Section IV of the FOTG. The new standards are Forage Harvest Management (Code 511) and

Prescribed Grazing (Code 528A). These practices may be used in conservation systems that treat highly erodible land.

DATES: Comments will be received by December 6, 1999.

ADDRESSES: Address all requests and comments to Robert L. Eddleman, State Conservationist, Natural Resources Conservation Service (NRCS), 6013 Lakeside Blvd., Indianapolis, Indiana 46278. Copies of these standards will be made available upon written request. You may submit electronic requests and comments to joe.gasperi@in.usda.gov.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, 317–290–3200.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law, to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Indiana will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Indiana regarding disposition of those comments and a final determination of changes will be made.

Dated: October 21, 1999.

Robert L. Eddleman,

State Conservationist, Indianapolis, Indiana.

[FR Doc. 99–28833 Filed 11–3–99; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews and requests for revocation in part.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with September anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received requests to revoke two antidumping duty orders in part.

EFFECTIVE DATE: November 4, 1999.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b) (1997), for administrative reviews of various antidumping and countervailing duty orders and findings with September anniversary dates. The Department also received timely requests to revoke in part the antidumping duty orders on certain cut-to-length carbon steel plate from Canada and oil country tubular goods from Mexico. The request for revocation with respect certain cut-to-length carbon steel plate from Canada and oil country tubular goods from Mexico was inadvertently omitted from the previous initiation notice. (64 FR 53318, October 1, 1999).

Initiation of Reviews

In accordance with sections 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than September 30, 2000.

	Period to be reviewed
Antidumping duty proceedings	
ARGENTINA: Silicon Metal, A–357–804	9/1/98–8/31/99
Electrometalurgica Andina S.A.I.C.	
CANADA: Certain Cut-to-Length Carbon Steel Plate, A–122–823	8/1/98–7/31/99
Gerdau MRM Steel [1]	
GERMANY:	
Large Newspaper Printing Presses and Components Thereof, Whether Assembled or Unassembled	9/1/97–8/31/98
Koeing & Bauer-Albert AG	9/1/98–8/31/99
MAN Roland Druckmaschinen AG	9/1/98–8/31/99
GERMANY: Certain Cut-to-Length Carbon Steel Plate, A–428–816	*8/1/97–7/31/98*
Novosteel SA.	
*Inadvertently omitted from previous initiation notice.	
ITALY: Granular Polytetrafluoroethylene Resin*, A–475–703	8/1/98–7/31/99
Ausimont Spa	
*Inadvertently omitted from previous initiation notice.	
JAPAN: Large Newspaper Printing Presses and Components, Thereof, Whether Assembled or Unassembled	9/1/98–8/31/99
Mitsubishi Heavy Industries, Ltd.	
Tokyo Kikai Seisakusho, Ltd.	
KOREA: Stainless Steel Wire Rod	3/5/98–8/31/99
Changwon Specialty Steel Co., Ltd.	
Dongbang Special Steel Co., Ltd.	
Pohang Iron and Steel Co., Ltd.	
ROMANIA: Certain Cut-to-Length Carbon Steel Plate	8/1/98–7/31/99
Windmill International PTE, Ltd. of Singapore*	
*Inadvertently omitted from previous initiation notice.	
SPAIN: Stainless Steel Wire Rod	3/5/98–8/31/99
Roldan, S.A.	
SWEDEN: Stainless Steel Wire Rod	3/5/98–8/31/99
Fagersta Stainless AB	
THE PEOPLE'S REPUBLIC OF CHINA: Freshwater Crawfish Tail Meat*	9/1/98–8/31/99

	Period to be reviewed
Ningbo Nanlian Frozen Foods Co., Ltd. Qingdao Rirong Foodstuff Co., Ltd. Lianyungang Haiwang Aquatic Products Co., Ltd. Yancheng Haiteng Aquatic Products & Foods Co., Ltd. Huaiyin Foreign Trade Corp. Huaiyin Hua Yin Huaiyin Foreign Trade Corp. (5) Huaiyin Foreign Trade Corporation (No. 30), aka Huaiyin Foreign Trade Corp. (30) Yancheng Baolong Biochemical Products Co., Ltd. China Everbright Trading Company Binzhou Prefecture Foodstuffs Import & Export Corp. Yancheng Foreign Trade Corp. Jiangsu Cereals, Oils & Foodstuff Import & Export Corp. Yancheng Baolong Aquatic Foods Co., Ltd. Huaiyin Ningtai Fisheries Co., Ltd. Nanlong Delu Aquatic Food Co., Ltd. Zhenfeng Foodstuff Company Weishan Hongfa Lake Foodstuff Co., Ltd. Ever Concord Hua Yin Foreign Trading Huaiyin Foreign Trading Lianyungang Hailong Aquatic Product Qifaco Seatrade International Weishan Jinmuan Foodstuff Welly Shipping, aka Kenwa Shipping Yancheng Foreign Trading Jiangsu Baolong Group Asia-Europe Jiangsu Yangheng Aquatic Products Freezing Plant Yupeng Fishery *If one of the above named companies does not qualify for a separate rate, all other exporters of freshwater crawfish tail meat from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.	
Countervailing Duty Proceedings	
GERMANY: Certain Cut-to-Length Carbon Steel Plate Novosteel SA *Inadvertently omitted from previous initiation notice.	*1/1/97–12/31/97
ITALY: Stainless Steel Wire Rod Acciaierie Valbruna S.r.l. Acciaierie di Bolzano SpA	1/1/98–12/31/98
ITALY: Certain Pasta LaMolisana Industrie Alimentari S.p.A.* Rummo S.p.A. Molino e Pasificio* Pasificio Riscossa F.lli Mastromauro S.r.l* *Inadvertently omitted from initiation notice published on August 30, 1999 (64 FR 47167).	1/1/98–12/31/98
Suspension Agreements	
None.	

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(d) (sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

For transition orders defined in section 751(c)(6) of the Act, the Secretary will apply paragraph (j)(1) of this section to any administrative review initiated in 1998 (19 CFR 351.213(j)(1–2)).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: October 28, 1999.

Bernard T. Carreau,

Deputy Assistant Secretary, Group II for AD/CVD Enforcement.

[FR Doc. 99–28916 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102699C]

Fisheries of the Northeastern United States; Atlantic Surf Clam and Ocean Quahog Fisheries; Vendor for Year 2000 Cage Tags

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Vendor for year 2000 cage tags.

SUMMARY: NMFS announces that surf clam and ocean quahog allocation owners will be required to purchase their year 2000 cage tags from a vendor, National Band and Tag Company, Newport, KY.

ADDRESSES: Send written inquiries to Tom Warren, National Marine Fisheries Service, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930–3799.

FOR FURTHER INFORMATION CONTACT: Tom Warren, Fishery Management Specialist, (978) 281–9347.

SUPPLEMENTARY INFORMATION:

Regulations for the Atlantic surf clam and ocean quahog fisheries at 50 CFR 648.75(b) require that prior to the beginning of each fishing year (January 1), the Regional Administrator, Northeast Region (Regional Administrator) either issue a supply of tags to each individual vessel owner qualifying for an allocation or specify in the **Federal Register** a vendor from whom the tags must be purchased. NMFS announces that allocation owners must purchase their year 2000 cage tags from the National Band and Tag Company of Newport, KY, as the authorized vendor of cage tags for the year 2000 Federal surf clam and ocean quahog fisheries. NMFS used the same vendor in 1999. This option is more economical and efficient than issuance of tags by the Regional Administrator. The Regional Administrator will provide detailed instructions for purchasing these cage tags in a letter to allocation owners within the next several weeks.

Dated: October 29, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–28939 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 991014275–9275–01 I.D. 102799B]

RIN 0648–ZA73

Coastal Services Center Broad Area Announcement

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of Federal assistance.

SUMMARY: The NOAA Coastal Services Center announces the availability of Federal assistance for fiscal year (FY) 2000 in the following areas: Landscape Characterization and Restoration, Integration and Development, Coastal Change and Analysis Program, Coastal Technology Services, and Special Projects. This announcement provides guidelines for these program areas and includes details for the technical program, evaluation criteria, and selection procedures of each. Selected recipients will either enter into a cooperative agreement with the Center or receive a grant depending upon the amount of the Center's involvement in the project–substantial involvement means a cooperative agreement, while independent work requires a grant.

DATES: For the specific dates of each program, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: Send all proposals to NOAA Coastal Services Center, 2234 South Hobson Ave., Charleston, SC 29405–2413. Particularly, send proposals for

Landscape Characterization and Restoration to Pace Wilber;

Integration and Development to Cindy Fowler;

Coastal Change and Analysis Program to Dorsey Worthy;

Coastal Technology Services to Jeff Payne;and Special Project to Jan Kucklick.

FOR FURTHER INFORMATION CONTACT:

Violet Legette, (843)–740–1222, Administrative questions.

Pace Wilber, (843)–740–1235, Landscape Characterization and Restoration.

Cindy Fowler, (843)–740–1249, Integration and Development.

Dorsey Worthy, (843)–740–1234, Coastal Change and Analysis Program.

Jeff Payne, (843)–740–1207, Coastal Technology Services.

Jan Kucklick, (843)–740–1279, Special Projects.

For detail information about electronic e-mail address, see Electronic Access under **SUPPLEMENTARY INFORMATION** section.

SUPPLEMENTARY INFORMATION:

Authority

Statutory authority for these programs is provided under 16 U.S.C. 1456c (Technical Assistance); 15 U.S.C. 1540 (Cooperative Agreements); 33 U.S.C. 1442 (research program respecting possible long-range effects of pollution, overfishing, and man-induced changes of ocean ecosystems); 33 U.S.C. 883a (surveys and other activities); 33 U.S.C. 883b (dissemination of data); 33 U.S.C. 883C (geomagnetic data collection, correlation, and dissemination); 33 U.S.C. 883d (improvement of methods, instruments, and equipments; investigations and research); and 33 U.S.C. 883E (cooperative agreement for surveys and investigations).

Electronic Access

Submit comments or questions for specified programs by sending electronic mail to:

Violet.Legette @noaa.gov;
Pace.Wilber @noaa.gov;
Cindy.Fowler @noaa.gov
Dorsey.Worthy @noaa.gov
Jeff.Payne @noaa.gov
Janet.Kucklick @noaa.gov

All applicants are required to submit a NOAA grants application package and project proposal. The standard NOAA grants application package (which includes forms SF–424, SF–424A, SF–424B, SF–424C, SF–424D, CD–511, CD–512, and SF-LLL) can be obtained from the NOAA grants website at http://www.rdc.noaa.gov/grants/pdf/. Funding will be subject to the availability of Federal appropriations.

The recipients must comply with Executive Order 12906 regarding any and all geospatial data collected or produced under grants or cooperative agreements. This includes documenting all geospatial data in accordance with the Federal Geographic Data Committee Content Standard for digital geospatial data.

Catalog of Federal Domestic Assistance (CFDA)

The NOAA Coastal Services Center Program is listed in the Catalog of Federal Domestic Assistance under Number 11.473.

General Background

Guiding the conservation and management of coastal resources is a primary function of NOAA. NOAA accomplishes this goal through a variety of mechanisms, including collaborations with the coastal resource management programs of the nation's states and

territories. The mission of the NOAA Coastal Services Center is to foster and sustain the environmental and economic well being of the coast by linking people, information, and technology. The goal of the Center is to build capabilities throughout the nation to address pressing issues of coastal health and change by promoting coastal resource conservation and efficient and sustainable commercial and residential development.

Landscape Characterization and Restoration - Information Resource for the Management Needs of a Northeastern United States Estuarine Watershed or Coastal Management Area.

Project Description

NOAA's Coastal Services Center seeks proposals from regional, state, or local government agencies; academic institutions; or nonprofit organizations for a 2-year cooperative agreement under which a cooperator and the Center will jointly develop a digital information resource for an estuarine watershed or management area within the northeastern United States. For this announcement, ''northeastern United States'' is defined as an area extending from North Carolina through Maine. Cooperators can choose any estuarine watershed or coastal management area within these boundaries. The information resource must focus on one or more resource management needs of the chosen watershed or area. The cooperator will choose the management needs that will be focused on, such as a regional habitat restoration plan, non-point source pollution management plan, long-term dredged material management plan, watershed management plan, or detailed environmental characterization. The information resource must integrate the ecological and socioeconomic information needed to address the management issues chosen and clearly help coastal managers make resource management, regulatory, or land-use planning decisions. Total anticipated funding is $270,000 over 2-year and is subject to the availability of Federal FY 2000 and FY 2001 appropriations. Only one award is anticipated from this announcement.

Background

This announcement is a call for proposals for work under the Center's Landscape Characterization and Restoration (LCR) Program. The goal of the program is to help Federal, state, and local coastal managers include ecosystem processes in their resource management, regulatory, and land-use planning decisions. The program and program partners will work toward this goal by examining interrelationships among ecological, land use, human demographic, and socioeconomic trends in coastal watersheds and by developing tools needed to integrate those relationships into management practices.

LCR projects directly address management issues that are both locally significant and of regional importance (e.g., habitat restoration, non-point source pollution reduction, growth management). Projects generally include development of habitat, wetland function, demographic, and land use maps; information syntheses; natural resource databases; environmental models; and customized geographic information system (GIS) or similar software to forecast results of management alternatives.

The program's principal products are environmental characterizations of watersheds that integrate the ecological and socioeconomic information needed to address management issues identified by cooperators. Final products are in a digital format and distributed via CD-ROM and the Internet and include a spatial database, a customized GIS interface, and a narrative that provides a detailed overview of the focal management issues, how the accompanying information was used to examine potential solutions, and how the overall product can be used in future examinations of coastal management issues. The program and its cooperators are currently working on, or have completed, characterizations of Otter Island (South Carolina), the ACE Basin (South Carolina), Kachemak Bay (Alaska), and Rookery Bay/Belle Meade (Florida). Overviews of the program and these projects are available through the Internet (http://www.csc.noaa.gov/lcr/).

Roles and Responsibilities

By working in a cooperative partnership, the unique skills, capabilities, and experiences of the Center and the cooperator will be combined and offer an opportunity for each organization to further its goals. In their proposals, potential cooperators shall propose the respective roles and responsibilities of the Center and the cooperator. In past projects, the Center provided general guidance on how to develop the information resource and the application of spatial analysis to address the identified management issues; led design of GIS and HTML architectures, user interfaces, and any needed software customization; contributed to the development of GIS-based models of the management issues and proposed solutions; and compiled the final products onto a CD-ROM.

At a minimum, the roles and responsibilities of the cooperators shall include: identifying the management issues that guide development of the information resource; identifying the information needed to address the issues; developing partnerships with other members of the coastal management community; developing and collecting the information (text, tables, graphics, charts, and maps) and tools (organizational structure and models) needed to address the management issues; developing all metadata and other information needed to assess the quality of the data and tools; and determining how the products should be organized to maximize utility to the cooperator and other members of the coastal management community.

Project Proposals

The Center must receive proposals by 5 p.m. (Eastern time) on December 21, 1999. Proposals postmarked December 21, 1999, but not received until after December 21, 1999, will NOT be accepted. In addition to providing the following requested information, the cooperator must submit a complete NOAA grants package (with signed originals). No e-mail or fax copies will be accepted. All project proposals must include the sections listed here and total no more than 10 pages (double spaced, 12–point font, and exclusive of appendices):

Goal, Objective(s), and Geographic Area–Identify the specific geographic area that will be examined. Identify the specific management objective(s) of the project, including description of current management goals that are not being achieved, how products from this cooperative agreement will significantly address that deficiency, and the benefits that will result to the cooperators, partners, public, and coastal management community.

Background/Introduction – Provide sufficient background information for reviewers to independently assess the local significance and regional importance of the management objectives that will be addressed by the project. Summarize the status of any existing efforts by the cooperator and partners to address these objectives.

Audience–Identify potential users of the product, how those users will incorporate the product in their management of coastal resources, and identify any training that will be needed for users to make full use of the information resource.

Project Description/Methodology–Provide a general work plan that divides the project into discrete steps, identifies critical decision points, and discusses any obstacles to completing the project that may require special planning. One of the initial tasks of the cooperative agreement will be for the Center and the cooperator to prepare a detailed task plan that explains how the resources of both groups will be leveraged to produce the information resource. The work plan requested for this part of the proposal should demonstrate that the cooperator and partners have sufficient local knowledge of the management problems to lead a joint effort directed toward developing appropriate solutions.

Project Partners and Support–Identify project partners and describe their respective roles. Include a letter from partners acknowledging their participation in the project. Describe the resources the cooperators and partners have for conducting the project, including personnel qualifications (education, experience, and time available to work on the project), facilities, equipment, and, to the extent practicable, the information and tools already available. Describe how widely the project is supported within the coastal management community and offer evidence of that support.

Milestone Schedule–List target milestones, timelines, and describe how each milestone addresses project objectives.

Project Budget–Provide a detailed budget breakdown that follows the categories and formats

in the NOAA grants package and a brief narrative justification of the budget.

Evaluation Criteria (with weights) and Selection Process

Review panels will be set up using two NOAA and at least two non-NOAA reviewers to assist in the evaluation of the proposals. All proposals received will be ranked according to score, and the selecting official (Center Director) will use those scores to aid in making the final decision. The selecting official may also consider program policy factors in the final decision to ensure that Center projects are balanced geographically and institutionally. Evaluation criteria are:

Significance (20 points) – How well the proposal demonstrates the local significance and regional importance of the issues(s) or management objective(s) that will guide development of the information resource. At a minimum, the proposal must identify management goals that currently are not being achieved, describe how products from this cooperative agreement will significantly address that deficiency, and state the benefits that will result to the public and coastal management community.

Technical Approach (30 points)–How well the proposal divides the project into discrete tasks that make effective use of the technical capabilities of the cooperator, partner(s), and Center. This factor also includes the technical merit of the process that the cooperator has outlined for developing the information resource.

Outcomes (20 points)–How well the proposing agency demonstrates that the project outcomes will significantly address the management issue(s) targeted by the project and that the collective resources of the proposing agency and partners will ensure projected outcomes are met.

Partnerships (20 points) – How well the proposal demonstrates that the project is broadly supported by the coastal management community, that a broad groups of coastal managers and constituents will contribute to the design and assembly of product(s); that a broad group of coastal managers will use the product(s); and that the knowledge and expertise of the cooperator, partner(s), and Center will be effectively leveraged.

Cost Efficiency (10 points)–How well the proposing agency demonstrates that the budget is commensurate with project needs and that the partnerships employed will improve the overall cost effectiveness of the project and value of the products. There is no requirement for cost sharing; however, up to 5 additional points (beyond the 10 allotted to this category) will be awarded for cost sharing.

Selection Schedule

Proposals will be reviewed once during the year. The following schedule lists the dates for the project selection and award process for grants and/or cooperative agreements:

Proposal Deadline (with completed grant package) December 21, 1999

Earliest Approximate Grant Start Date May 1, 2000

NOTE: All deadlines are for receipt by close of business [5 p.m. Eastern time] on the dates identified. Receipt of proposal and grant package (with original signatures) will be time stamped. E-mail or fax copies will not be accepted. One original and one copy of the proposal and grant paperwork is required.

Funding Availability

Specific funding available for awards will be finalized after NOAA funds for FY 2000 are authorized. Total funding available for this cooperative agreement with the LCR program is anticipated to be $270,000 over two years. One award is anticipated from this announcement. Publication of this notice does not obligate NOAA toward any specific grant or cooperative agreement or to obligate all or any parts of the available funds.

Cost Sharing

There is no requirement for cost sharing in response to these guidelines, however, proposals that include cost sharing will likely score highly under evaluation criteria #5 above.

Eligibility Criteria

Applications for cooperative agreements under this announcement may be submitted, in accordance with the procedures set forth in these specific guidelines, by any regional, state or local government agency; college or university; nonprofit organization; or cooperative research unit. Other Federal agencies or institutions are not eligible to receive assistance under this notice but may be project partners.

Integration and Development - Bathymetric Data Collection

Project Description

The NOAA Coastal Services Center seeks proposals from state, local or regional resource management agencies, port authorities, and academic institutions for projects that conduct new acquisition and supporting documentation of bathymetric data in the Southeastern Atlantic region. Private companies and agencies in partnership with the above mentioned collaborators are also invited to submit proposals. The intent of this program is to support high quality hydrographic digital data collection efforts for public resource management needs that can be used to supplement current NOAA NOS nautical chart data collection programs. It is expected that this funding will supplement agencies who are already considering hydrographic surveys for beach renourishment projects, sand and sediment transport studies, fisheries management, benthic habitat evaluations, dredging, dredge disposal siting projects, and other related projects. A major objective of this program is to rescue, document, and make available bathymetric data for marine applications. The geographic extent of desired data is from the area (on-shore) of tidal influence out to the

Exclusive Economic Zone in the four-state region of Florida, Georgia, South Carolina, and North Carolina. Maximum anticipated funding for FY 2000 is $200,000 and it is intended that this funding will be distributed amongst multiple projects. The award level is contingent on methodology, the level of detail, and the geographic scope of the project. It is also expected that proposal recipients will cost–share in the project.

Background

Under the NOAA, NOS strategic efforts to support safe navigation, hydrographic surveys are conducted to produce nautical charts. For safety reasons, these surveys are conducted using strict hydrographic survey procedures (see http://chartmaker.ncd.noaa.gov/ocs/text/prodserv.htm). In addition to its intended charting purpose, hydrographic survey data is very useful to the coastal and ocean resource management community in the production of bathymetry. Moreover, hydrographic survey requirements for resource management need not be as rigorous as navigation surveys that protect life and limb. Supporting this community is an additional mandate of NOS under its coastal stewardship strategic goal. Due to financial constraints, NOS has only been able to commit to new surveys in major commercial shipping areas. Near shore and estuarine areas not generally deemed a navigational hazard are currently not routinely surveyed. Many of these areas are of interest to the coastal resource managers for projects related to dredging, dredge disposal, habitat studies, sediment transport, and beach renourishment projects.

NOAA is interested in supplementing its current hydrographic survey data collection with data from non-NOAA sources to meet strategic goals. In addition, NOAA is interested in helping non-NOAA sources acquire data using standards and documentation that will increase the usability and longevity of the data. NOAA is committed to helping third-party data creators document and make these data available to the marine community using standards and protocols outlined in the Geographic Data Committee (FGDC). Specifically, the Center is interested in helping foster the development of high quality accurate digital bathymetric data for use in desktop GIS for coastal and ocean resource management.

Project Proposals

The Center must receive proposals by 5 PM (Eastern time) on December 21, 1999. Proposals postmarked December 21, 1999, but not received until after December 21, 1999, will NOT be accepted. In addition to providing the information requested below, the cooperator must submit a complete NOAA grants package (with signed originals). No E-mail or FAX copies will be accepted. All project proposals must include the following sections and total no more than 20 pages (double spaced, 12–point font, and exclusive of appendices):

Project Description/Methodology– This section should address the general work plan and deliverables. Methodology should address specific methods of data collection and documentation that as a minimum include the methods of sounding, methods of correcting for motion of the survey platform, methods of horizontal positioning, and methods of corrections for tide. In addition, proposal should include limits of survey area and density of line spacing and sounding interval. Proposal should include a section of chart that outlines the survey area and orientation to the depth contour. Database format must be adequately described and include a supplemental descriptor file or metadata that contains the information necessary for completing a FGDC-compliant metadata record for the survey.

Project Partners and Subcontractors– Proposal should identify project partners and describe their respective roles. Include a letter from partners and subcontractors acknowledging their participation and area of responsibility. All projects must have a state, local or regional coastal resource management agency as a primary participant.

Milestone Schedule–Proposal should list target milestones and their respective time lines.

Project Budget–Proposal should provide a detailed budget breakdown that follows the categories and formats in the NOAA grants package and a brief narrative that justifies each item.

Evaluation Criteria (With Weights) and Selection Process

Review panels will be set up using four NOAA and two non-NOAA experts in the field of hydrographic survey methodology and spatial data acquisition. All proposals received will be ranked according to score and the selecting official (Center Director) will use those scores to aid in making the final decision. The selecting official may also consider program policy factors in the final decision to ensure Center projects are balanced geographically and institutionally. Evaluation criteria are:

Technical Merit (65 points)–The proposal will be judged on the methodology used to collect the data. This includes the corrections for vessel motion (heave, roll and pitch), equipment used, and method of sounding and corrections for tide. It is expected that differential Global Positioning System (GPS) will be used as the method of horizontal positioning, but this should be specifically addressed. Though not required, any corrections for sound velocity (in shallow water) or settlement and squat could positively influence this weighting.

Data Density, Geographic Scope, and Orientation (10 points)–This weighting will be based on the level of detail of the survey. Project description should include a map or graphic that outlines the intended spatial extent of the survey, the density of the line spacing, or number of soundings and the orientation of the survey platform to the depth contour.

Data Delivery Mechanism and Documentation (10 points)–Project will be judged on the database schema and documentation of the delivered data. Points will be awarded or deleted for the inclusion or absence of a coherent metadata strategy.

Cost Sharing and Theme (15 points) – There is no requirement for cost sharing; however, additional points will be awarded to proposals based on the level of funding provided by the proposing agency(s). The purpose or theme of the survey will be part of the weighting criteria. As stated above, one of the objectives of the Center is to foster improved bathymetric data access for the coastal and ocean resource community. Projects deemed to fall within this scope will be given additional weight. Additional weight will be given for the project's demonstrated applicability to coastal or ocean resource management.

Selection Schedule

Proposals will be reviewed once during the year. The following schedule lists the dates for the project selection and award process for grants and/or cooperative agreements:

Proposal Deadline (with completed grant package) December 21, 1999

Earliest Approximate Grant Start Date May 1, 2000

NOTE: All deadlines are for receipt by close of business [5 p.m. Eastern time] on the dates identified. Receipt of proposal and grant package (with original signatures) will be time stamped. or fax copies will not be accepted. One original and one copy of

the proposal and grant paperwork is required.

Funding Availability

Specific funding available for awards will be finalized after NOAA funds for FY 2000 are authorized. Total funding available for this grant or cooperative agreement with the Integration and Development program is anticipated to be no more than $200,000 and funding will be distributed over multiple projects. Publication of this notice does not obligate NOAA toward any specific grant or cooperative agreement or to obligate all or any parts of the available funds.

Cost Sharing

There is no requirement for cost sharing in response to these guidelines, however, proposals that include cost sharing will likely score highly under evaluation criteria #4 above.

Eligibility Criteria

Applications for grants under this program announcement may be submitted in accordance with the procedures set forth in these specific guidelines by any state, local or regional resource management agency, ports authority, non-profit agency, or academic institution. Private industry is encouraged to apply and must have an active state or local coastal resource management partner to qualify.

Coastal Change and Analysis Program

Project Description

The NOAA Coastal Services Center is seeking to expand its national effort to monitor change in coastal habitats. The Center will be soliciting proposals from regional, state, and local government agencies, academic institutions, and nonprofit organizations for two to three year cooperative agreements. Under these agreements, a cooperator and the Center's Coastal Change and Analysis Program (C-CAP) will jointly develop terrestrial land cover change data and benthic habitat. Combined funding for all proposals is anticipated at $100,000, with a maximum limit of $75,000 per proposal. A 20 percent cost share will be required.

Background

The NOAA Coastal Services Center's C-CAP is a nationwide effort to produce standardized and consistent terrestrial and benthic habitat maps and change data for coastal areas of the United States. C-CAP data are used for identifying and protecting essential fish habitat, to help determine the impacts of nearshore habitat change on living marine resources, and to provide a context for more informed coastal decision making. Consideration for funding will be limited to project proposals for Hawaii or Florida based on gaps in previous C-CAP habitat characterization efforts. These projects must be accomplished in close cooperation with state and local resource management agencies. This work must be based on the established NOAA C-CAP land cover and benthic characterization protocol: NOAA Coastal Change Analysis Program Guidance for Regional Implementation (Dobson, *et al.*, 1995, NOAA Technical Report - NMFS 123, United States Department of Commerce). The C-CAP protocol is available via the web at http://www.csc.noaa.gov/ccap/protocol/protocoltxt.html.

Roles and Responsibilities

These projects are intended to be cooperative in nature. The project proposals should demonstrate cooperative efforts among various participants such as , state, and local governments. Successful proposals will establish a consortium of key participants, and identify appropriate responsibilities for these project partners. The following items identify the minimum project participation expected by the Center and the project applicant. Additional roles and responsibilities should be identified by the applicant.

NOAA Coastal Services Center: C-CAP and the Center shall have primary responsibility for the following activities associated with the project:

- Provide all Landsat Thematic Mapper imagery or aerial photography needed for the project. The original, government-provided data are property of the Center and must be returned to the Center upon completion of the project.
- Provide technical guidance for image processing, field verification, and accuracy assessment to ensure all procedures and products meet the guidelines presented in Dobson *et al.*, 1995 (which is available on the C-CAP homepage of the Center web site or upon request from the Center library). This includes:
- The provision of guidance and manpower in all field exercises deemed necessary by both parties; and
- Site visits by Center personnel to the facilities of the cooperator(s) to provide technical assistance as necessary during data processing.
- Provide all necessary forms, information and assistance to document Geographic Data Committee (FGDC) compliant metadata for the change detection product.

Monitor progress and evaluate biannual progress reports.

Cooperator: The cooperator shall have primary responsibility for the following activities associated with the project:

- Organize and manage project planning and partnership development.
- Administer the cooperative agreement in accordance with the terms of the cooperative agreement award.
- Identify a technical coordinator that will take the lead for all technical aspects of the change detection and a management coordinator that will be responsible for relating the data to key management issues and ensuring that the data are integrated into pertinent coastal management programs.
- Perform a change detection analysis for the study area as per this announcement presented in Dobson *et al.*, 1995.
- Furnish for the change detection analysis all digital (i.e. NWI) or hard copy (i.e. aerial photos) data at their disposal that may be valuable as ancillary data.
- Provide complete FGDC-compliant metadata for the change detection products.
- Provide all georeferenced field data collected during image verification and accuracy assessment.
- Submit biannual progress reports.

Both Parties: Both C-CAP and the cooperator will provide final field accuracy assessment of the product, which may require either party to supply such equipment as laptop computers for field use, GPS units, four-wheel drive vehicles, etc.

Project Proposals

The Center must receive proposals by 5 p.m. (Eastern time) on

December 21, 1999. Proposals postmarked December 21, 1999, but not received until after December 21, 1999, will NOT be accepted. In addition to providing the information requested below, the cooperator must submit a complete NOAA grants package (with signed originals). No or fax copies will be accepted. All project proposals must include the following sections and total no more than 8 pages (double spaced, 12–point font, and exclusive of appendices):

- Goals and Objectives–Identify broad project goals and quantifiable objectives.
- Background/Introduction– State the problem and summary of existing /state/ local efforts.
- Audience–Describe specifics of how the project will contribute to improving or resolving coastal management issues with the primary target audience, and explicitly identify the

audience.

• Project Description/Methodology–Describe the specifics of the project (in 3 pages maximum), with a complete and explicit description of the project area (i.e. Thematic

Mapper scene path, row; number and location of aerial photos, flightlines, etc.) and a demonstration of understanding and adherence to the C-CAP protocol.

• Project Partners–Identify project partners and their respective roles.

Milestones and Outcomes–List target milestones, timelines, and desired outcomes in terms of products or services.

• Project Budget–Provide a detailed budget breakdown by category and provide a brief narrative budget justification, including identification of 20% cost share.

Evaluation Criteria (with weights) and Selection Process

Review panels will be set up using two NOAA and at least two non-NOAA reviewers to assist in the evaluation of the proposals. All proposals received will be ranked according to score and the selecting official (Center Director) will use those scores to aid in making the final decision. The selecting official also may consider program policy factors in the final decision to ensure Center projects are balanced geographically and institutionally. It is not anticipated that funding will be sufficient to award grants in all state project areas. Applications that do not meet the required 20% cost share will not be considered. Evaluation criteria are:

Coastal management relevance (40 points).

- Does the project tie into ongoing , state or local management activities and/or programs? (25 points).

- Does the project address critical , state or local coastal management policies relating to benthic and coastal land cover and land cover change (i.e. non-point source runoff)? (15 points).

Strength of partnerships (25 points).

- Does the project have a clearly defined audience, and products have clearly defined

users? (10 points).

- Will the project foster ongoing , state or local partnerships for use of land cover change to answer coastal management needs? (15 points).

Technical merit (35 points).

- Does the proposed project maximize the use of existing information and technical resources? (10 points).

- Is the approach scientifically sound and relevant at the local level? (10 points).

- Is the approach consistent with the C-CAP protocol? (15 points).

Selection Schedule

Proposals will be reviewed once during the year. The following schedule lists the dates for the project selection and award process for grants and/or cooperative agreements:

Proposal Deadline (with completed grant package) December 21, 1999

Earliest Approximate Grant Start Date May 1, 2000

NOTE: All deadlines are for receipt by close of business [5 p.m. Eastern time] on the dates identified. Receipt of proposal and grant package (with original signatures) will be time stamped. or fax copies will not be accepted. One original and one copy of the proposal and grant paperwork is required.

Funding Availability

Specific funding available for awards will be finalized after NOAA funds for FY 2000 are authorized. Total funding available for this cooperative agreement with C-CAP will be $100,000, with a maximum of $75,000 per proposal. Publication of this notice does not obligate NOAA toward any specific grant or cooperative agreement or to obligate all or any parts of the available funds.

Cost Sharing

Cost sharing at 20% of the total project funding cost is required in response to these guidelines and should be provided by the applicant or third party contributions.

Eligibility Criteria

Applications for grants under this program announcement may be submitted, in accordance with the procedures set forth in these specific guidelines, by any state or local resource management agency, college or university, private industry, nonprofit organization, or cooperative research unit. Other agencies or institutions are not eligible to receive assistance under this notice.

Coastal Technical Services - Coastal Technology Demonstration and Verification

Project Description

NOAA's Coastal Services Center seeks proposals from state or local resource management agencies, academic institutions, nonprofit organizations, and private sector companies for projects in two areas:

Pilot projects under which a cooperator(s) and the Center will scope out or design and apply prototype decision making tools and information products for coastal resource management. Emphasis will be placed on projects that address coastal habitat management and coastal hazards mitigation. Projects must be based on ''market research'' of , state, and local coastal managers' needs and assessment of their capabilities to address these needs. Scoping (initial pilot) projects will seek to develop a conceptual framework to clearly define the applications of new decision support tools. Full-scale pilot projects will include the design of customized training products for advanced, distributed, learning platforms to accelerate introduction of project products to the target audience and to guide users through performing procedures and making decisions using new tools. Total available funding for all proposals is anticipated at $200,000 to $300,000 per year, subject to the availability of appropriations. The maximum available annual funding for individual pilot scoping projects is $25,000 while maximum funding for full-scale pilot projects is $150,000.

Technology verification and transfer projects under which a cooperator(s) and the Center will work together to demonstrate and validate innovative technologies that target the coastal resource management and regulatory communities' most urgent technological needs. The Center currently is focused on three areas of technology need: in-situ coastal and ocean monitoring, coastal habitat restoration and enhancement, and estuarine contaminant mitigation. Lab-proven technologies are moved to the field for rigorous trials that document their cost, performance, and market potential. Total available funding for all proposals may be in the range of $75,000 to $200,000 per year. The maximum available annual funding for individual projects is $200,000, although projects of special merit may be considered at annual levels above $200,000, subject to the availability of appropriations.

Background

The goal of the Coastal Technology Demonstration and Verification program is to make it possible for coastal managers and regulators at all levels to use the latest, best, and most efficient technology and information to make science-based decisions for managing coastal resources. The program works toward this goal by establishing coalitions of the Center and government agencies at all levels, academia, and the private and non-profit organizations to:

(1) develop and test prototype decision making tools and information products for coastal management; and (2) demonstrate and verify existing and

lab-proven coastal and marine technologies.

Pilot projects to develop and test new decision making tools and information products must directly address management issues that are both locally significant and of regional importance. Products must be market driven and compatible with end users' capabilities. Full-scale pilot projects would involve design and development of a prototype, field application and evaluation with end users, final product development, and training. Past experience has revealed that this iterative process is best accomplished by coalitions of technology developers, technology deliverers, and end users.

Technology verification and transfer programs are conducted in two phases. The initial phase will include an assessment of technologies and user needs. Once this phase is completed, an evaluation by the Center will be conducted to determine whether a verification program should be implemented. If the evaluation is favorable, project cooperators and end users will begin establishing priorities and defining procedures and protocols for implementing the demonstration and verification activities. Following each verification project, a comprehensive technology delivery system will be designed to employ report dissemination, training, and public outreach to meet technology users' and developers' information needs. The Center currently is working to establish programs on in situ environmental monitoring sensors and habitat restoration technologies.

Roles and Responsibilities

Projects are intended to be cooperative partnerships among the Center, project cooperators, and end-users of the project's products. By working in a cooperative partnership, the unique skills, capabilities, and experiences of the Center and the cooperator will be combined and offer an opportunity for each organization to further their goals. In their proposals, potential cooperators should propose the respective roles and responsibilities of the Center, the cooperator, and project partners. In general, the Center will provide basic guidance on the desired nature of the project product to address the identified management issues. At a minimum, the roles and responsibilities of the cooperators shall include:

- Identifying the management issues that guide development of the product.
- Identifying the information needed to address the issues.
- Developing partnerships with other end users, including members of the coastal management community.
- Developing and collecting the information and tools needed to address the management issues.
- Developing all other information needed to assess the quality and utility of the data and tools.
- Determining how the products should be organized to maximize utility to the cooperator and end users.

Project Proposals

The Center will accept proposals twice during the year (see ''Selection Schedule'' below). All

proposals are due by 5 p.m. (Eastern time) on the date specified below. Proposals postmarked on the due date but not received until after the due date will NOT be accepted. In addition to

providing the information requested below, the cooperator must submit a complete NOAA grants package (with signed originals). No e-mail or fax copies will be accepted. All

project proposals must include the following sections and total no more than 15 pages (double spaced, 12–point font, and exclusive of appendices):

Goal and Objective(s) – Identify the specific management objective(s) of the project, including description of current management goals that are not being achieved, how products from the project will significantly address that deficiency, and the benefits that will result to the coastal management community and other end users.

Background/Introduction – Provide sufficient background information for reviewers to independently assess the local significance and regional importance of the management objectives that will be addressed by the project. Summarize the status of any existing efforts to address these objectives.

Audience–Identify potential users of the product, how those users will incorporate the product into their management of coastal resources, and identify any training that will be needed for users to make full use of the products.

Project Description/Methodology– Provide a general work plan that divides the project into discrete steps, identifies critical decision points, and discusses any obstacles to completing the project that may require special planning. One of the initial tasks of the project will be for the Center and the cooperator to prepare a detailed task plan that explains how the resources of both groups will be leveraged to produce the information resource. The work plan requested for this part of the proposal should demonstrate that the cooperator and partners have sufficient local knowledge of the management problems to lead a joint effort directed towards developing appropriate solutions.

Project Partners and Support – Identify project partners and describe their respective roles. Include a letter from partners acknowledging their participation in the project. Describe the resources the cooperators and partners have for conducting the project, including personnel qualifications (education, experience, and time available to work on the project), facilities, equipment, and, to the extent practicable, the information and tools already available. Describe how widely the project is supported within the coastal management community and provide evidence of that support.

Milestone Schedule–List target milestones, timelines, and describe how each milestone addresses project objectives.

Project Budget–Provide a detailed budget breakdown that follows the categories and format in the NOAA grants package and a brief narrative justification of the budget.

Evaluation Criteria (with weights) and Selection Process

Review panels will be set up using two NOAA and at least two non-NOAA reviewers to assist in the evaluation of the proposals. All proposals received will be ranked according to score and the selecting official (Center Director) will use those scores to aid in making the final decision. The selecting official may also consider program policy factors in the final decision to ensure Center projects are balanced geographically and institutionally. Evaluation criteria are:

Significance (20 points) – How well the proposal demonstrates the local significance and regional importance of the issues(s) or management objective(s) that will guide development of the project products. At a minimum, the proposal must identify management goals that currently are not being achieved, describe how products from the project will significantly address that deficiency, and the benefits that will result to the public and coastal management community.

Technical Approach (30 points)–How well the proposal divides the project into discrete tasks that make effective use of the technical capabilities of the cooperator, partner(s), and Center. This factor also includes the technical merit of the process that the cooperator has outlined for developing the project's products.

Outcomes (20 points)–How well the cooperator demonstrates that the project outcomes significantly will address the management issue(s) targeted by the project and that the collective resources of the cooperator and partners will ensure projected outcomes are met.

Partnerships (20 points)–How well the proposal demonstrates that the project is broadly supported by the coastal management community, that a broad group of end users, including coastal managers and constituent groups, will contribute to design and assembly of product(s); that a broad group of coastal managers and other end users will use the product(s); and that the knowledge and expertise of the cooperator, partner(s) and Center will be effectively leveraged.

Cost Efficiency (10 points)–How well the proposing agency demonstrates that the budget is commensurate with project needs and that the partnerships employed will improve the overall cost effectiveness of the project and value of the products. There is no requirement for cost sharing; however, up to 5 additional points (beyond the 10 allotted to this category) will be awarded for cost sharing.

Selection Schedule

Proposals will be reviewed twice during the year. The following schedule lists the dates for the project selection and award process for cooperative agreements. An unsuccessful application for cycle 1 (December 1 due date) will have to be resubmitted for cycle 2 (June 1 due date):

Proposal Deadline (with completed grant package) December 1, 1999

Earliest Approximate Grant Start Date April 1, 2000

Proposal Deadline (with completed grant package) June 1, 2000

Earliest Approximate Grant Start Date September 1, 2000

NOTE: All deadlines are for receipt by close of business [5 p.m. Eastern time] on the dates identified. Receipt of proposal and grant package (with original signatures) will be time stamped. E-mail or FAX copies will not be accepted. One original and one copy of the proposal and grant paperwork is required.

Funding Availability

Specific funding available for awards will be finalized after NOAA funds for FY 2000 are appropriated. Funding available under this announcement for pilot projects to scope, develop and test prototype decision-making tools and information products will be between $25,000 and $150,000 per year. Funding for projects to establish technology demonstration and evaluation programs may range from $75,000 to $200,000 per year, although projects of special merit may be considered at annual levels above $200,000. Publication of this notice does not obligate NOAA toward any specific grant or cooperative agreement or to obligate all or any parts of the available funds.

Cost Sharing

There is no requirement for cost sharing in response to these guidelines. However, proposals that include cost sharing or other in-kind resources will likely score highly under evaluation criteria #5 above.

Eligibility Criteria

Applications for projects under this announcement may be submitted, in accordance with the procedures set forth in these specific guidelines, by any regional, state or local government agency; college or university; nonprofit organization; cooperative research unit; or private sector firm. Other agencies or institutions are not eligible to receive assistance under this notice but may be project partners.

Special Projects

Project Description

The NOAA Coastal Services Center is seeking proposals for special technical, management, or planning projects that relate to growth management in coastal areas or human use of coastal resources. Project proposals are due December 21, 1999, (with earliest start date of May 1, 2000). See ''Selection Schedule'' below. Anticipated funding in FY 2000 will be between $100,000 and $150,000. Four to six projects will be funded in the $20,000 to $25,000 range for one year with the potential for option years (depending on the availability of funds through the appropriation process). Projects above $25,000 will not be considered.

Background

The Center conducts a variety of projects that directly apply to the state and local coastal management community. The goal of Special Projects is to provide assistance to the local coastal management community for technical or management issues on specific topics relating directly to growth management in coastal areas or human use of coastal resources.

In FY 2000, the Center expects to award grants and cooperative agreements (for those projects with substantial Center involvement) to organizations across the United States with proven abilities to implement practical solutions at a state and local level. Proposed study topics must relate to growth management in coastal areas or to human use of coastal resources. All project proposals received that meet the above topic criteria will be reviewed for technical merit and management relevance.

Project Proposals

The Center must receive proposals by 5 PM (Eastern time) on December 21, 1999. Proposals postmarked December 21, 1999, but not received until after December 21, 1999, will NOT be accepted. In addition to providing the information requested below, the cooperator must submit a complete NOAA grants package (with signed originals). No or fax copies will be accepted. All project proposals must include the following sections and total no more than 10 pages (double spaced, 12–point font, and exclusive of appendices):

Goals and Objectives–Identify broad project goals and quantifiable objectives.

Background/Introduction – state the problem and summarize existing efforts at all levels.

Audience–Describe specifics of how the project will contribute to improving or resolving an issue with the primary target audience. The target audience must be explicitly stated.

Project Description/Methodology–Describe the specifics of the projects (3 pages maximum).

Project Partners – Identify project partners and their respective roles.

Milestones and Outcomes–List target milestones, timelines, and desired outcomes in terms of products and services.

Project Budget – Proposal should provide a detailed budget breakdown that follows the categories and formats in the NOAA grant package and a brief narrative that justifies each item.

Evaluation Criteria (with weights) and Selection Process

Review panels will be set up using two NOAA and at least two non-NOAA reviewers to assist in the evaluation of the proposals. All proposals received will be ranked according to score and the selecting official (Center Director) will use those scores to aid in making the final decision. The selecting official also may consider program policy factors in the final decision to ensure Center projects are balanced geographically and institutionally. Evaluation criteria are:

Management Relevance (30 points)

- Does the proposed project (directly or indirectly) address a critical national, regional, state, or local management need relating directly to growth

management of coastal areas or human use of coastal resources?

- Are the project goals and objectives clear and concise?

- Are there direct ties to the state coastal management agency, National Estuarine Research Reserve, and/or National Marine Sanctuary?

- Does the proposed project have a clearly defined management audience and do the products have clearly defined users?

- Will the outreach/transfer mechanisms be effective (in transferring science tools and information to management)?

Technical Merit (25 points)

- Is the approach technically sound?

- Does the proposed project build on existing knowledge?

- Is the approach innovative?

Applicability and Effectiveness of Products and their Delivery (25 points)

- Will the proposed project produce useful (and easily used) products, services, or an understanding for the target audience and users?

- Is project implementation likely to be flexible and responsive to public and user input?

- Will the products be delivered in a timely and appropriate manner to appropriate recipients?

- Will the products have long-term (lasting) value and widespread applicability?

- Will the outreach/transfer mechanisms be effective (in transferring science tools and information to management)?

- Is an effective evaluation mechanism built into the project process?

Efficiency (15 points)

- Is the budget commensurate with the project needs?

- Are appropriate partnerships going to be employed to achieve the highest quality content and maximal efficiency?

Overall Qualifications (5 points)

- Are the proposers capable of conducting a project of the scope and scale proposed? (i.e., Are there adequate professional, facility, and administrative capabilities?)

Selection Schedule

Special projects will be reviewed once during the year. The following schedule lists the dates for the project selection and award process for grants and/or cooperative agreements:

Proposal Deadline (with completed grant package) December 21, 1999

Earliest Approximate Grant Start Date May 1, 2000

NOTE: All deadlines are for receipt by close of business [5 p.m. Eastern time] on the dates identified. Receipt of proposal and grant package (with original signatures) will be time stamped. E-mail or FAX copies will not be accepted. One original and one copy of the proposal and grant paperwork is required.

Funding Availability

Specific funding available for awards will be finalized after NOAA funds for FY 2000 are authorized. Total funding available for this announcement will be between $100,000 and $150,000. Publication of this notice does not obligate NOAA toward any specific grant or cooperative agreement or to obligate all or any parts of the available funds.

Cost Sharing

There is no requirement for cost sharing in response to this program announcement and no additional weight will be given to proposals with cost sharing.

Eligibility Criteria

Applications for grants under this program announcement may be submitted, in accordance with the procedures set forth in these specific guidelines, by any state or local resource management agency, college or university, private industry, nonprofit organization, or cooperative research unit. Other agencies or institutions are not eligible to receive assistance under this notice.

General Information For All Programs

Indirect Costs

The total dollar amount of the indirect costs proposed in an application under any of these programs must not exceed the current indirect cost rate negotiated and approved by the applicant's cognizant agency, prior to the proposed effective date of the award or 100 percent of the total proposed direct costs dollar amount in the application, whichever is less. If a rate has not been established, one will be negotiated by the Department of Commerce (DOC) Office of Inspector General.

Policies and Procedures

Recipients and sub-recipients are subject to all laws and DOC policies, regulations, and procedures applicable to assistance awards.

Name Check Review

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the recipient have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the recipient's management, honesty, or financial integrity.

Past Performance

Unsatisfactory performance under prior awards may result in an application not being considered for funding.

Pre-Award Activities

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover pre-award costs should an award not be made or funded at a level less than requested.

No Obligation for Future Funding

If the application is selected for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

Delinquent Debts

No award of funds shall be made to an applicant who has an outstanding delinquent debt until either:

(1) The delinquent account is paid in full,

(2) A negotiated repayment schedule is established and at least one payment is received, or

(3) Other arrangements satisfactory to DOC are made.

Primary Applicant Certifications

All organizations or individuals preparing grant applications must submit a completed Form CD–511 ''Certifications Regarding Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,'' and explanations are hereby provided:

- Non-Procurement Debarment and Suspension

Prospective participants (as defined at 15 CFR part 26, Section 105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies.

- Drug-Free Workplace

Grantees (as defined at 15 CFR part 26, Section 605) are subject to 15 CFR part 26, subpart f, ''Government-wide Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies.

- Anti-Lobbying

Persons (as defined at 15 CFR 28, 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to application/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000.

- Anti-Lobbying Disclosures

Any applicant that has paid or will pay for lobbying using any funds must submit an SF-LLL form, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, Appendix B.

Lower Tier Certifications

Recipients shall require applicants/bidders for sub-grants, contracts, subcontracts, or other lower-tier-covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF-LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF-LLL submitted by any tier recipient or sub-recipient should be submitted to DOC in accordance with the instructions contained in the aware document.

False Statements

A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Intergovernmental Review

Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Programs.''

Buy American-Made Equipment or Products

Applicants are hereby notified that they will be encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866. Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act (APA) or any other law for this notice concerning grants, cooperative agreements, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act (RFA).

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number. This notice contains a collection-of-information requirements subject to the Paperwork Reduction Act. The collection-of-information has been approved by OMB, OMB Control Numbers 0348–0041, 0348–0042, 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001.

Dated: October 29, 1999.

Captain Ted I. Lillestolen,

Deputy Assistant Administratorfor Ocean Services and Coastal Zone Management.

[FR Doc. 99–28787 Filed 10–29–99; 4:53 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102599A]

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's (Council) Ad-Hoc Groundfish Strategic Plan Development Committee (Committee) will hold six 2-day work sessions which are open to the public.

DATES: The six 2-day work sessions will be held over a 6-month period. See **SUPPLEMENTARY INFORMATION** for specific dates and times for the work sessions. All work sessions will be held from 10 a.m. to 5 p.m. on the first day, and 8 a.m. to 4 p.m. on the second day.

ADDRESSES: The six 2-day work sessions will be held at the Pacific States Marine Fisheries Commission, Large Conference Room, 45 SE 82nd Drive, Suite 100, Gladstone, Oregon; telephone (503) 650–5400.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, Oregon 97201.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence D. Six, Executive Director; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of these work sessions is to prepare a West Coast groundfish strategic plan for Council review and approval. The six–2 day workshops will be held on the following dates:

1. Tuesday, November 16, 1999 and Wednesday, November 17, 1999.
2. Tuesday, December 14, 1999 and Wednesday, December 15, 1999.
3. Tuesday, January 18, 2000 and Wednesday, January 19, 2000.
4. Tuesday, February 15, 2000 and Wednesday, February 16, 2000.
5. Tuesday, April 18, 2000 and Wednesday, April 19, 2000.
6. Monday, May 22, 2000 and Tuesday, May 23, 2000.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during these meetings. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These work sessions are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the meeting dates.

Dated: October 29, 1999.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–28800 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 102999A]

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Council's Recreational Fisheries Data Task Force (RFDTF) will hold a meeting.

DATES: The meeting will be held November 16, 1999, from 8:30 a.m. to 1:00 p.m.

ADDRESSES: The meeting will be held at the Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI, 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone 808–522–8220.

SUPPLEMENTARY INFORMATION: This will be the second meeting of the RFDTF which will discuss the following topics: review of recommendations from the first task force meetings and progress to date, U.S. Coast Guard safety requirements for small-scale commercial fishing vessels, support for recreational fishing in Hawaii, economic impact of recreational fishing in the Western Pacific Region, impacts of current and proposed fishery management plans on recreational fisheries in Hawaii, and other business as required.

Although non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: October 29, 1999.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–28801 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 990921259–9259–01]

National Weather Service (NWS) Modernization and Associated Restructuring

AGENCY: NWS, NOAA, Commerce.

ACTION: Deferral of public comment period and clarification regarding NWS proposed actions for the Erie, Pennsylvania, Weather Service Office (WSO).

SUMMARY: The NWS published in 64 FR 52491, Sept. 29, 1999, a notice and opportunity for public comment on proposed certifications for the consolidation, automation, and closure of WSO Erie, Pennsylvania, and WSO Fairbanks, Alaska. This notice defers the public comment period on proposed certifications of WSO Erie and provides updated and clarifying information regarding NWS proposed actions for WSO Erie.

FOR FURTHER INFORMATION CONTACT: Tom Beaver at 301–713–0300 extension 136.

SUPPLEMENTARY INFORMATION: The NWS published in 64 FR 52491, Sept. 29, 1999, a notice and opportunity for public comment on the proposed certifications for the consolidation, automation, and closure of WSO Erie, Pennsylvania, and WSO Fairbanks, Alaska. With respect to WSO Erie certifications, the notice informed the public that the NWS determined removal of the WSR–74C radar would cause a degradation of service for some lake-effect snow events in the Erie, Pennsylvania, service area. It further informed the public that to address this degradation, the NWS would continue operating the WSR–74C radar at Erie during the winter season until a new Federal Aviation Administration (FAA) radar is installed at the Erie airport and suitability of weather data from the FAA radar is validated by the NWS in consultation with users.

Since the publication of the September 29, 1999, FR notice, certain information in the notice has changed. In addition, the NWS believes its planned course of action for WSO Erie requires clarification. First, the NWS has been advised that installation of the new FAA radar at Erie will begin in May 2002, not 2001 as indicated in the September 29, 1999, FR notice. Second, regarding the NWS planned course of action, the NWS stresses it will not seek the Modernization Transition Committee's endorsement of the Erie consolidation, automation, and closure certifications nor will it seek the Secretary's final approval of these certifications until actions to address the identified degradation have been fully and successfully implemented and user groups have been appropriately consulted. Therefore, NWS believes seeking comments from the public at this time is premature since the NWS plan for use of data from the new FAA radar is several years from completion. Accordingly, NWS is deferring the public comment period on its proposed certifications for WSO Erie until actions to address the identified degradation have been fully and successfully implemented and user groups have been appropriately consulted. The NWS will provide advance notice in the FR of the public comment period at that time.

Dated: October 29, 1999.

John J. Kelly, Jr.,

Assistant Administrator for Weather Services.

[FR Doc. 99–28854 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–KE–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071599E]

Magnuson-Stevens Act Provisions; Atlantic Tuna Fisheries; Exempted Fishing Permits (EFPs)

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Applications for EFPs; request for comments.

SUMMARY: NMFS announces the receipt of applications for EFPs. If issued, these EFPs would authorize the retention of Atlantic tunas (other than bluefin tuna) by vessels participating in the coastal driftnet fishery for Atlantic bonito. NMFS anticipates the receipt of several more EFP applications for this same purpose. If EFPs are issued for the coastal driftnet fishery, NMFS would collect information on target catch and bycatch and assess the potential impacts of authorizing driftnet gear for certain Atlantic Highly Migratory Species (HMS) fisheries. While this information is being collected, issuance of EFPs will reduce regulatory discards of Atlantic tunas.

DATES: Written comments on NMFS' consideration to issue such EFPs must be received on or before December 6, 1999.

ADDRESSES: Send comments to Rebecca Lent, Chief, Highly Migratory Species Management Division (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Copies of the EFP applications and the regulations governing issuance of EFPs are available upon request.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 978–281–9260; fax: 978–281–9340.

SUPPLEMENTARY INFORMATION: EFPs are requested and issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), regulations at 50 CFR 600.745 concerning scientific research activity, exempted fishing, and exempted educational activity, and regulations at 50 CFR 635.32 concerning specifically authorized activities.

The final rule to implement the Atlantic Tunas, Swordfish, and Sharks Fishery Management Plan (HMS FMP) prohibits the use of driftnets in the Atlantic tuna and swordfish fisheries (64 FR 29090, May 28, 1999). In responding to comments on the proposed rule, NMFS recognized that the prohibition on driftnets for Atlantic tunas would preclude participants in the mid-Atlantic coastal driftnet fishery from retaining their catch of skipjack tuna, and advised coastal driftnet vessel operators who wish to use driftnet gear when targeting species other than Atlantic tunas (*e.g.*, bait fish and Atlantic bonito) to apply to NMFS for an EFP to land incidentally caught Atlantic tunas (other than bluefin tuna). NMFS may issue EFPs to these individuals in 2000 in order to collect more information on catch and bycatch in this fishery and help determine NMFS' future course of action relative to the current prohibition on driftnet gear; issuance of EFPs would reduce regulatory discards while NMFS collects this information. NMFS estimates that the prohibition of driftnet gear in the Atlantic tuna fisheries affects approximately 20 vessel operators in the coastal gillnet fishery.

NMFS is seeking public comment on the potential impacts of issuing EFPs for the purpose of landing Atlantic tunas (other than bluefin tuna) incidentally caught in the coastal driftnet fishery. The two EFP requests received to date specifically request authorization to retain skipjack tuna. Based on 1997 landings information from the fishery conducted prior to the prohibition, NMFS estimates that up to 20 vessels may request an EFP for the retention of skipjack tuna and may retain up to a total of 32,000 lb. (14.5 mt) of skipjack tuna. In 1998, Atlantic-wide landings of 31,455 mt and U.S. landings of 84.3 mt were reported to ICCAT for 1997. It is probable that such incidental catch of skipjack cannot be practically avoided and would otherwise be discarded dead.

All EFPs issued during the 2000 season would expire December 31, 2000, and reports on catch and bycatch would be required of participants in the exempted fishery prior to any consideration of renewal. A final decision on issuance of EFPs will depend on the submission of such required information, NMFS' review of public comments received on the applications, conclusions of any environmental analyses conducted pursuant to the National Environmental Policy Act, and any consultations with appropriate Regional Fishery Management Councils, states, or Federal agencies.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: October 28, 1999.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–28936 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

U.S. Marine Corps

Privacy Act of 1974; System of Records

AGENCY: U.S. Marine Corps, DoD.

ACTION: Amend records systems.

SUMMARY: The U.S. Marine Corps proposes to amend three systems of records notices in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on December 6, 1999, unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Head, FOIA and Privacy Act Section, Headquarters, U.S. Marine Corps, 2 Navy Annex, Washington, DC 20380–1775.

FOR FURTHER INFORMATION CONTACT: Ms. B. L. Thompson at (703) 614–4008 or DSN 224–4008.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed actions are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report for each system. The specific changes to the records systems being amended are set forth below followed by the notices, as amended, published in their entirety.

Dated: October 27, 1999.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense

MMN00014

SYSTEM NAME:

Work Measurement Labor Distribution Cards *(February 22, 1993, 58 FR 10630).*

CHANGES:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '5 U.S.C. 301, Departmental Regulation; 10 U.S.C. 5013, Secretary of the Navy; and 10 U.S.C. 5041, Headquarters, Marine Corps.'

* * * * *

STORAGE:

Delete entry and replace with 'Paper and electronic files.'

RETRIEVABILITY:

Delete entry and replace with 'Records retrieved alphabetically by last name of the individual.'

SAFEGUARDS:

Delete entry and replace with 'Records are maintained in areas accessible only by supervisory personnel. Access to electronic records is controlled by password or other user identification code.'

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with 'Individual and individual's supervisor.'

* * * * *

MMN00014

SYSTEM NAME:

Work Measurement Labor Distribution Cards.

SYSTEM LOCATION:

All Marine Corps activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Marine Corps employees, civilian, military and occasional summer hires funded by state and local programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Labor distribution cards which have been prepared by either the concerned individual or the supervisor to record the number of hours worked, the number of units produced by the employee, the function of the employee during that time, and the job number of the job. Also, the system contains summarizations of said card and computer input and output relative to said card.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 5013, Secretary of the Navy; and 10 U.S.C. 5041, Headquarters, Marine Corps.

PURPOSE(S):

To provide a record of labor distribution on individuals assigned to work organizations for use in the management of work assignments.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Marine Corp's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic files.

RETRIEVABILITY:

Records retrieved alphabetically by last name of the individual.

SAFEGUARDS:

Records are maintained in areas accessible only by supervisory personnel. Access to electronic records is controlled by password or other user identification code.

RETENTION AND DISPOSAL:

Record destroyed one year after the last week of subject's work.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding officer of activity. U.S. Marine Corps official mailing addresses are incorporated into the Department of the Navy's address directory, published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the system manager.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the system manager.

Requests should include name of employee, work center number, and work week for which data is requested. Personal visits and telephone calls should be made directly to the employee's work center supervisor.

CONTESTING RECORD PROCEDURES:

The U.S. Marine Corps rules for contesting contents and appealing initial agency determinations are published in the Secretary of the Navy Instruction 5211.5; Marine Corps Order P5211.2; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual and individual's supervisor.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

MMN00016

SYSTEM NAME:

Accident and Injury Reporting System *(February 22, 1993, 58 FR 10630).*

CHANGES:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; and E.O. 9397 (SSN).'

* * * * *

STORAGE:

Delete entry and replace with 'Paper and electronic records.'

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records maintained 5 years after incident, then destroyed.'

* * * * *

MMN00016

SYSTEM NAME:

Accident and Injury Reporting System.

SYSTEM LOCATION:

Organizational elements of the U.S. Marine Corps. U.S. Marine Corps official mailing addresses are incorporated into the Department of the Navy's address directory, published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military or civilian employees who are involved in accidents which result in lost time, government or private property damage or destruction and personnel injury or death.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, rank, Social Security Number, type of accidents and injuries. Reports include consolidated accident injury report, and report of motor vehicle accident.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; and E.O. 9397 (SSN).

PURPOSE(S):

To provide a record of all individuals involved in accidents for use in resolving the disposition of such accidents and establishing appropriate safety programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Marine Corp's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

By name and Social Security Number.

SAFEGUARDS:

Access provided on a need-to-know basis only. Locked and/or guarded office.

RETENTION AND DISPOSAL:

Records maintained 5 years after incident, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding officer of the activity in question. U.S. Marine Corps official

mailing addresses are incorporated into the Department of the Navy's address directory, published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commanding officer of the activity in question. U.S. Marine Corps official mailing addresses are incorporated into the Department of the Navy's address directory, published as an appendix to the Navy's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commanding officer of the activity in question. U.S. Marine Corps official mailing addresses are incorporated into the Department of the Navy's address directory, published as an appendix to the Navy's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The USMC rules for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; Marine Corps Order P5211.2; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual concerned, military police traffic accident investigation reports, accident injury reports, other records of the activity, witness, and other correspondents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

MMN00017

SYSTEM NAME:

Armory Access and Individual Weapons Assignments *(February 22, 1993, 58 FR 10630).*

CHANGES:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '5 U.S.C. 301, Departmental Regulation; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; and E.O. 9397 (SSN).'

* * * * *

STORAGE:

Delete entry and replace with 'Paper and electronics records.'

RETRIEVABILITY:

Delete entry and replace with 'By name and social security number.'

SAFEGUARDS:

Delete entry and replace with 'Records are maintained in areas accessible only to authorized personnel. Access to electronic records is controlled by password or other user identification code.'

RETENTION AND DISPOSAL:

Delete entry and replace with 'Records retained until weapons are returned, then destroyed.'

* * * * *

MMN00017

SYSTEM NAME:

Armory Access and Individual Weapons Assignments.

SYSTEM LOCATION:

Organizational elements of the U.S. Marine Corps. U.S. Marine Corps official mailing addresses are incorporated into the Department of the Navy's address directory, published as an appendix to the Navy's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All personnel assigned government weapons. All personnel authorized access to individual armories.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records depict name of individual, type of weapon assigned, serial number of that weapon, accessories in the individual's possession, condition of the weapon and accessories, and individual's signature acknowledging receipt.

Name, rank, Social Security Number of personnel authorized access to individual armories.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulation; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 5041, Headquarters, Marine Corps; and E.O. 9397 (SSN).

PURPOSE(S):

To provide a record of weapons accountability, management and control of all U.S. Government weapons/accessories issued to personnel and to provide record of personnel authorized access to armory spaces.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Marine Corp's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronics records.

RETRIEVABILITY:

By name and Social Security Number.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel. Access to electronic records is controlled by password or other user identification code.

RETENTION AND DISPOSAL:

Records retained until weapons are returned, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding officer of the activity in question. U.S. Marine Corps official mailing addresses are incorporated into the Department of the Navy's address directory, published as an appendix to the Navy's compilation of systems of records notices.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commanding officer of the activity in question. U.S. Marine Corps official mailing addresses are incorporated into the Department of the Navy's address directory, published as an appendix to the Navy's compilation of systems of records notices.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Commanding officer of the activity in question. U.S. Marine Corps official mailing addresses are incorporated into the Department of the Navy's address directory, published as an appendix to the Navy's compilation of systems of records notices.

CONTESTING RECORD PROCEDURES:

The USMC rules for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; Marine Corps Order P5211.2; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual concerned, other records of the activity.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–28673 Filed 11–3–99; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to amended systems of records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on December 6, 1999, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act officer, Records Management Program Division, Army Records Management and Declassification Agency, ATTN: TAPC–PDD–RP, Stop C55, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C.. 552a), as amended, which requires the submission of a new or altered system report.

Dated: October 27, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

AD640–10b NGB

SYSTEM NAME:

Military Personnel Records Jacket (NGB) *December 23,1997, 62 FR 67055).*

CHANGES:

SYSTEM IDENTIFIER

Change system identifier to 'A0600–8–104b'.

* * * * *

SYSTEM LOCATION:

Add to end of entry 'Addresses for each state headquarters may be obtained from the National Guard Bureau, Army National Guard Readiness Center, ATTN: NGB–ARP–S, 111 South George Mason Drive, Arlington, VA 22204–1382.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Add to entry 'AR 600–8–104, Military Personnel Information Management/ Records.'

* * * * *

A0500–8–104b

SYSTEM NAME:

Military Personnel Records Jacket (NGB).

SYSTEM LOCATION:

The custodian of the Military Personnel Record will either be the State Personnel Service Center (PSC) located in conjunction with the Office of the Adjutant General or each National Guard Armory in those non-PSC states: Guam, Puerto Rico, the Virgin Islands, and the District of Columbia. Addresses for each state headquarters may be obtained from the National Guard Bureau, Army National Guard Readiness Center, ATTN: NGB–ARP–S, 111 South George Mason Drive, Arlington, VA 22204–1382.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All members of the Army National Guard not on active duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

The individual's service agreement, record of emergency data, certificates of release or discharge from active duty (DD Form 214) and other service computation documents, active duty orders, military occupational specialty orders, Servicemen's Group Life Insurance election, security questionnaire and clearance, transfer requests and orders, promotions, reductions, personnel qualification record (DD Form 2091), oath of extensions of enlistment, selective reserve incentive program agreements, notice of basic eligibility (NOBE) for GI Bill, and discharge documents and orders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 10 U.S.C. 3013, Secretary of the Army; E.O. 9397 (SSN); and AR 600–8–104, Military Personnel Information Management/Records.

PURPOSE(S):

These records are created and maintained to manage the member's National Guard Service effectively; Historically document the member's military service; and Safeguard the rights of members and the Army.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the Central Intelligence Agency; Department of Agriculture; Department of Commerce; Department of Health and Human Services; Department of Education; Department of Labor; Department of State; Department of the Treasury; Department of Transportation; Federal Aviation Agency; National Transportation Safety Board; American Battle Monuments Commission; Department of Veterans Affairs; Federal Communications Commission; U.S. Postal Service Selective Service System; Social Security Administration; state, county and city welfare organizations when information is required to consider applications for benefits; penal institutions when the individual is a patient or an inmate; state, county and city law enforcement authorities.

Note: Records of the identity, diagnosis, prognosis, or treatment of any client/patient, irrespective of whether or when he/she ceases to be a client/patient, maintained in connection with the performance of any alcohol or drug abuse prevention and treatment function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, shall, except as provided therein be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974, as amended, in regard to accessibility of such records except to the individual to whom the record pertains. Blanket Routine Uses do not apply to these records.

The ''Blanket Routine Uses'' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By individual's name.

SAFEGUARDS:

Records maintained in areas accessible only to authorized personnel having need therefor in the performance of official business. The Military Personnel Records Jacket is transferred from station to station in the personnel possession of the individual whose record it is, or by U.S. Postal Service.

RETENTION AND DISPOSAL:

Military personnel records are retained until updated or service of individual is terminated. Following separation, the transfer of the records is to the U.S. Army Reserve Personnel Command or to the National Personnel Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

National Guard Bureau, Army National Guard Readiness Center, ATTN: NGB–ARP–C, 111 South George Mason Drive, Arlington, VA 22204–1382.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if information about themselves is contained in this record system should address written inquiries to the commander of the unit to which the Army National Guard member is assigned.

For separated personnel, information may be obtained from the Commander, U.S. Army Reserve Personnel Command, One Reserve Way, St. Louis, MO 63132–5200.

For discharged or deceased personnel, contact the National Personnel Records Center, 9700 Page Avenue, St. Louis, MO 63132–5200.

For verification purposes, individual should provide full name, service identification number current military status and current address.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this record system should address written inquiries to the commander of the unit to which the Army National Guard member is assigned.

For separated personnel, information may be obtained from the Commander, U.S. Army Reserve Personnel Command, One Reserve Way, St. Louis, MO 63132–5200.

For discharged or deceased personnel contact the National Personnel Records Center, 9700 page Avenue, St. Louis, MO 63132–5200.

For verification purposes, individual should provide full name, service identification number, current military status, and current address.

For personal visits, the requester should provide acceptable identification i.e., military identification care or other identification normally acceptable in the transaction of business.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records, and for contesting contents and appealing initial agency determination are contained in Army Regulation 340–21: 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual, educational and financial institutions, law enforcement agencies, personal references provided by the individual, Army records and reports, third parties when information furnished relates to the service member's status.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–28672 Filed 11–3–99 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Department of the Army is altering a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

The routine use being added to AAFES 0702.34, entitled Accounts Receivable Files, allows disclosure of information to employers for the purpose of collecting debts owed to the United States. The routine use reads as follows: 'To any employer (person or entity) that employs the services of others and that pays their wages or salaries, where the employee owes a delinquent nontax debt to the United States. The term employer includes, but is not limited to, State and local governments, but does not include any agency of the Federal Government.

DATES: This proposed action will be effective without further notice on December 6, 1999, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Program Division, U.S. Total Army Personnel Command, ATTN: TAPC–PDR–P, Stop C55, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the privacy Act of 1974, (5 U.S.C. 552a) as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 19, 1999, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: October 27, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

AAFES 0702.34

SYSTEM NAME:

Accounts Receivable Files (August 20, 1997, 62 FR 44263).

CHANGES:

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 3013, Secretary of the Army and 10 U.S.C. 8013, Secretary of the Air Force; Federal Claims Collection Act of 1966 (Pub. L. 89–508, as amended); Debt Collection Act of 1982 (Pub. L. 97–365), as amended by the Debt Collection Improvement Act of 1996 Pub. L. 104–134, section 31001); AR 60–20/AFR 147–14, Army and Air Force Exchange Service Operating Policies; and E.O. 9397 (SSN); 31 CFR 285.11, Administrative Wage Garnishment; DoD 7000.14–4, DoD Financial Management Regulation.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES;

Add a new paragraph 'To any employer (person or entity) that employs the services of others and that

pays their wages or salaries, where the employee owes a delinquent nontax debt to the United States. The term employer includes, but is not limited to, State and local governments, but does not include any agency of the Federal Government'.

* * * * *

AAFES 0702.34

SYSTEM NAME:

Accounts Receivable Files.

SYSTEM LOCATION:

Headquarters, Army and Air Force Exchange Service, 3911 S. Walton Walker Boulevard, Dallas, TX 75236–1598;

Army and Air Force Exchange Service-Europe, Europe Accounting Support Office, CMR 429, APO AE 09054;

Army and Air Force Exchange Service-Pacific Rim, Accounting Support Center, Unit 35163, APO AP 96378–5163; and

Post and base exchanges within the Army and Air Force Exchange Service (AAFES) system. Official mailing addresses are published as an appendix to the Army's compilation of systems of records notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Army and Air Force Exchange Service customers (military, retirees, civilian, and civilian dependents).

CATEGORIES OF RECORDS IN THE SYSTEM:

Case files relating to debts owed by individuals, including dishonored checks, deferred payment plans, home layaway, salary/travel advances, pecuniary liability claims and credit cards. These files include all correspondence to the debtor/his or her commander, notices from banks concerning indebtedness, originals or copies of returned checks, envelopes showing attempts to contact the debtor, payment documentation, pay adjustment authorizations, deferred payment plan applications, charges and statements or accounts, and home layaway cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 3013, Secretary of the Army and 10 U.S.C. 8013, Secretary of the Air Force; Federal Claims Collection Act of 1966 (Pub. L. 89–508, as amended); Debt Collection Act of 1982 (Pub. L. 97–365), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, section 31001); AR 60–20/AFR 147–14, Army and Air Force Exchange Service Operating Policies; and E.O. 9397 (SSN); 31 CFR 285.11, Administrative Wage Garnishment; DoD 700.14–R, DoD Financial Management Regulation.

PURPOSES(S):

To process, monitor, and post audit accounts receivable, to administer the Federal Claims Collection Act, and to answer inquiries pertaining thereto.

To collect indebtedness.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the U.S. Department of Justice/U.S. Attorneys for legal action and/or final disposition of the debt claim.

To the Internal Revenue Service (IRS) to obtain locator status for delinquent accounts receivables (controls exist to preclude redisclosure of solicited IRS address data; and/or to report write-off amounts as taxable income as pertains to amounts compromised and accounts barred from litigation due to age).

To private collection agencies for collection action when the internal collection efforts have been exhausted.

To the Department of the Treasury, Financial Management Service, for the purpose of collecting delinquent debts owed to the U.S. Government via administrative offset.

To any employer (person or entity) that employs the services of others and that pays their wages or salaries, where the employee owes a delinquent nontax debt to the United States. The term employer includes, but is not limited to, State and local governments, but does not include any agency of the Federal Government.

The 'Blanket Routine Uses' that appear at the beginning of the Army's compilation of systems of records notices apply to this system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this system to 'consumer reporting agencies' as defined in the Fair Credit Reporting Act (14 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purpose of this disclosure is to aid in the collection of outstanding debts owed to the Federal government; typically to provide an incentive for debtors to repay delinquent Federal government debts by making these debts part of their credit records.

The disclosure is limited to information necessary to establish the identity of the individual, including name, address, and taxpayer identification number (Social Security Number); the amount, status, and history of the claim; and the agency or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a commercial credit report.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and automated records.

RETRIEVABILITY:

Retrieved by customer's surname or Social Security Number.

SAFEGUARDS:

Records are maintained in areas accessible only by authorized personnel within AAFES–FA–O/R.

RETENTION AND DISPOSAL:

Records are retained in current files until close of fiscal year in which receivable is cleared. At year end, files are stored for 10 years and subsequently destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Commander, Army and Air Force Exchange Service, 3911 S. Walton Walker Boulevard, Dallas, TX 75236–1598.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Chief, Accounts Receivable Division, Comptroller Division, 3911 S. Walton Walker Boulevard, Dallas, TX 75236–1598.

Individuals should provide full name, Social Security Number, or other acceptable identifying information that will facilitate locating the records.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Commander, Army and Air Force Exchange Service, ATTN: Chief, Accounts Receivable Division, Comptroller Division, 3911 S. Walton Walker Boulevard, Dallas, TX 75236–1598.

Individuals should provide full name, Social Security Number, or other acceptable identifying information that will facilitate locating the records.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are published in Army Regulation 340–21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the customer and from correspondence between AAFES and Vendors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–28675 Filed 11–3–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Systems of Records

AGENCY: Defense Logistics Agency, DOD.

ACTION: Notice to alter a system of records.

SUMMARY: The Defense Logistics Agency proposes to alter a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective without further notice on December 6, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvior, VA 22060–6221.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Salus at (703) 767–6183.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 20, 1999, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: October 27, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base *(September 21, 1999, 64 FR 51104).*

CHANGES:

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In paragraph 5b, replace 'military members' with 'members of the Uniformed Services.'

* * * * *

S322.10 DMDC

SYSTEM NAME:

Defense Manpower Data Center Data Base.

SYSTEM LOCATION:

Primary location: Naval Postgraduate School Computer Center, Naval Postgraduate School, Monterey, CA 93943-5000.

Back-up location: Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955-6771.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Army, Navy, Air Force and Marine Corps officer and enlisted personnel who served on active duty from July 1, 1968, and after or who have been a member of a reserve component since July 1975; retired Army, Navy, Air Force, and Marine Corps officer and enlisted personnel; active and retired Coast Guard personnel; active and retired members of the commissioned corps of the National Oceanic and Atmospheric Administration; participants in Project 100,000 and Project Transition, and the evaluation control groups for these programs. All individuals examined to determine eligibility for military service at an Armed Forces Entrance and Examining Station from July 1, 1970, and later.

DoD civilian employees since January 1, 1972.

All veterans who have used the GI Bill education and training employment services office since January 1, 1971. All veterans who have used GI Bill education and training entitlements, who visited a state employment service office since January 1, 1971, or who participated in a Department of Labor special program since July 1, 1971. All individuals who ever participated in an educational program sponsored by the U.S. Armed Forces Institute and all individuals who ever participated in the Armed Forces Vocational Aptitude Testing Programs at the high school level since September 1969.

Individuals who responded to various paid advertising campaigns seeking enlistment information since July 1, 1973; participants in the Department of Health and Human Services National Longitudinal Survey.

Individuals responding to recruiting advertisements since January 1987; survivors of retired military personnel who are eligible for or currently receiving disability payments or disability income compensation from the Department of Veteran Affairs; surviving spouses of active or retired deceased military personnel; 100% disabled veterans and their survivors; survivors of retired Coast Guard personnel; and survivors of retired officers of the National Oceanic and Atmospheric Administration who are eligible for or are currently receiving Federal payments due to the death of the retiree.

Individuals receiving disability compensation from the Department of Veteran Affairs or who are covered by a Department of Veteran Affairs' insurance or benefit program; dependents of active duty military retirees, selective service registrants.

Individuals receiving a security background investigation as identified in the Defense Central Index of Investigation. Former military and civilian personnel who are employed by DoD contractors and are subject to the provisions of 10 U.S.C. 2397.

All Federal Civil Service employees.

All non-appropriated funded individuals who are employed by the Department of Defense.

Individuals who were or may have been the subject of tests involving chemical or biological human-subject testing; and individuals who have inquired or provided information to the Department of Defense concerning such testing.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized personnel/employment/pay records consisting of name, Service Number, Selective Service Number, Social Security Number, compensation data, demographic information such as home town, age, sex, race, and educational level; civilian occupational information; civilian and military acquisition work force warrant location, training and job specialty information; military personnel information such as rank,

assignment/deployment, length of service, military occupation, aptitude scores, post-service education, training, and employment information for veterans; participation in various inservice education and training programs; military hospitalization and medical treatment, immunization, and pharmaceutical dosage records; home and work addresses; and identities of individuals involved in incidents of child and spouse abuse, and information about the nature of the abuse and services provided.

CHAMPUS claim records containing enrollee, patient and health care facility, provided data such as cause of treatment, amount of payment, name and Social Security or tax identification number of providers or potential providers of care.

Selective Service System registration data.

Department of Veteran Affairs disability payment records.

Credit or financial data as required for security background investigations.

Criminal history information on individuals who subsequently enter the military.

Office of Personnel Management (OPM) Central Personnel Data File (CPDF), an extract from OPM/GOVT–1, General Personnel Records, containing employment/personnel data on all Federal employees consisting of name, Social Security Number, date of birth, sex, work schedule (full-time, part-time, intermittent), annual salary rate (but not actual earnings), occupational series, position occupied, agency identifier, geographic location of duty station, metropolitan statistical area, and personnel office identifier. Extract from OPM/CENTRAL–1, Civil Service Retirement and Insurance Records, including postal workers covered by Civil Service Retirement, containing Civil Service Claim number, date of birth, name, provision of law retired under, gross annuity, length of service, annuity commencing date, former employing agency and home address. These records provided by OPM for approved computer matching.

Non-appropriated fund employment/personnel records consist of Social Security Number, name, and work address.

Military drug test records containing the Social Security Number, date of specimen collection, date test results reported, reason for test, test results, base/area code, unit, service, status (active/reserve), and location code of testing laboratory.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, Departmental Regulations; 5 U.S.C. App. 3 (Pub.L. 95–452, as amended (Inspector General Act of 1978)); 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 2358, Research and Development Projects; and E.O. 9397 (SSN).

PURPOSE(S):

The purpose of the system of records is to provide a single central facility within the Department of Defense to assess manpower trends, support personnel and readiness functions, to perform longitudinal statistical analyses, identify current and former DoD civilian and military personnel for purposes of detecting fraud and abuse of pay and benefit programs, to register current and former DoD civilian and military personnel and their authorized dependents for purposes of obtaining medical examination, treatment or other benefits to which they are qualified, and to collect debts owed to the United States Government and state and local governments.

Information will be used by agency officials and employees, or authorized contractors, and other DoD Components in the preparation of the histories of human chemical or biological testing or exposure; to conduct scientific studies or medical follow-up programs; to respond to Congressional and Executive branch inquiries; and to provide data or documentation relevant to the testing or exposure of individuals

All records in this record system are subject to use in authorized computer matching programs within the Department of Defense and with other Federal agencies or non-Federal agencies as regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

Military drug test records will be maintained and used to conduct longitudinal, statistical, and analytical studies and computing demographic reports on military personnel. No personal identifiers will be included in the demographic data reports. All requests for Service-specific drug testing demographic data will be approved by the Service designated drug testing program office. All requests for DoD-wide drug testing demographic data will be approved by the DoD Coordinator for Drug Enforcement Policy and Support, 1510 Defense Pentagon, Washington, DC 20301–1510.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

1. To the Department of Veteran Affairs (DVA):

a. To provide military personnel and pay data for present and former military personnel for the purpose of evaluating use of veterans benefits, validating benefit eligibility and maintaining the health and well being of veterans and their family members.

b. To provide identifying military personnel data to the DVA and its insurance program contractor for the purpose of notifying separating eligible Reservists of their right to apply for Veteran's Group Life Insurance coverage under the Veterans Benefits Improvement Act of 1996 (38 U.S.C. 1968).

c. To register eligible veterans and their dependents for DVA programs.

d. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of:

(1) Providing full identification of active duty military personnel, including full-time National Guard/Reserve support personnel, for use in the administration of DVA's Compensation and Pension benefit program. The information is used to determine continued eligibility for DVA disability compensation to recipients who have returned to active duty so that benefits can be adjusted or terminated as required and steps taken by DVA to collect any resulting over payment (38 U.S.C. 5304(c)).

(2) Providing military personnel and financial data to the Veterans Benefits Administration, DVA for the purpose of determining initial eligibility and any changes in eligibility status to insure proper payment of benefits for GI Bill education and training benefits by the DVA under the Montgomery GI Bill (Title 10 U.S.C., Chapter 1606 – Selected Reserve and Title 38 U.S.C., Chapter 30 – Active Duty). The administrative responsibilities designated to both agencies by the law require that data be exchanged in administering the programs.

(3) Providing identification of reserve duty, including full-time support National Guard/Reserve military personnel, to the DVA, for the purpose of deducting reserve time served from any DVA disability compensation paid or waiver of VA benefit. The law (10 U.S.C. 12316) prohibits receipt of reserve pay and DVA compensation for the same time period, however, it does

permit waiver of DVA compensation to draw reserve pay.

(4) Providing identification of former active duty military personnel who received separation payments to the DVA for the purpose of deducting such repayment from any DVA disability compensation paid. The law requires recoupment of severance payments before DVA disability compensation can be paid (10 U.S.C. 1174).

(5) Providing identification of former military personnel and survivor's financial benefit data to DVA for the purpose of identifying military retired pay and survivor benefit payments for use in the administration of the DVA's Compensation and Pension program (38 U.S.C. 5106). The information is to be used to process all DVA award actions more efficiently, reduce subsequent overpayment collection actions, and minimize erroneous payments.

e. To provide identifying military personnel data to the DVA for the purpose of notifying such personnel of information relating to educational assistance as required by the Veterans Programs Enhancement Act of 1998 (38 U.S.C. 3011 and 3034).

2. To the Office of Personnel Management (OPM):

a. Consisting of personnel/employment/financial data for the purpose of carrying out OPM's management functions. Records disclosed concern pay, benefits, retirement deductions and any other information necessary for those management functions required by law (Pub.L. 83–598, 84–356, 86–724, 94–455 and 5 U.S.C. 1302, 2951, 3301, 3372, 4118, 8347).

b. To conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a) for the purpose of:

(1) Exchanging personnel and financial information on certain military retirees, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military retired pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

(2) Exchanging personnel and financial data on civil service annuitants (including disability annuitants under age 60) who are reemployed by DoD to insure that annuities of DoD reemployed annuitants are terminated where applicable, and salaries are correctly offset where applicable as required by law (5 U.S.C. 8331, 8344, 8401 and 8468).

(3) Exchanging personnel and financial data to identify individuals who are improperly receiving military retired pay and credit for military service in their civil service annuities, or annuities based on the 'guaranteed minimum' disability formula. The match will identify and/or prevent erroneous payments under the Civil Service Retirement Act (CSRA) 5 U.S.C. 8331 and the Federal Employees' Retirement System Act (FERSA) 5 U.S.C. 8411. DoD's legal authority for monitoring retired pay is 10 U.S.C. 1401.

(4) Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and cannot be released for extended active duty in the event of mobilization. Employing Federal agencies are informed of the reserve status of those affected personnel so that a choice of terminating the position or the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Services.

3. To the Internal Revenue Service (IRS) for the purpose of obtaining home addresses to contact Reserve component members for mobilization purposes and for tax administration. For the purpose of conducting aggregate statistical analyses on the impact of DoD personnel of actual changes in the tax laws and to conduct aggregate statistical analyses to lifestream earnings of current and former military personnel to be used in studying the comparability of civilian and military pay benefits. To aid in administration of Federal Income Tax laws and regulations, to identify non-compliance and delinquent filers.

4. To the Department of Health and Human Services (DHHS):

a. To the Office of the Inspector General, DHHS, for the purpose of identification and investigation of DoD employees and military members who may be improperly receiving funds under the Aid to Families of Dependent Children Program.

b. To the Office of Child Support Enforcement, Federal Parent Locator Service, DHHS, pursuant to 42 U.S.C. 653 and 653a; to assist in locating individuals for the purpose of establishing parentage; establishing, setting the amount of, modifying, or enforcing child support obligations; or enforcing child custody or visitation orders; and for conducting computer matching as authorized by E.O. 12953 to facilitate the enforcement of child support owed by delinquent obligors within the entire civilian Federal government and the Uniformed Services work force (active and retired). Identifying delinquent obligors will allow State Child Support Enforcement agencies to commence wage withholding or other enforcement actions against the obligors.

Note 1: Information requested by DHHS is not disclosed when it would contravene U.S. national policy or security interests (42 U.S.C. 653(e)).

Note 2: Quarterly wage information is not disclosed for those individuals performing intelligence or counter-intelligence functions and a determination is made that disclosure could endanger the safety of the individual or compromise an ongoing investigation or intelligence mission (42 U.S.C. 653(n)).

c. To the Health Care Financing Administration (HCFA), DHHS for the purpose of monitoring HCFA reimbursement to civilian hospitals for Medicare patient treatment. The data will ensure no Department of Defense physicians, interns or residents are counted for HCFA reimbursement to hospitals.

d. To the Center for Disease Control and the National Institutes of Mental Health, DHHS, for the purpose of conducting studies concerned with the health and well being of active duty, reserve, and retired personnel or veterans, to include family members.

5. To the Social Security Administration (SSA):

a. To the Office of Research and Statistics for the purpose of conducting statistical analyses of impact of military service and use of GI Bill benefits on long term earnings.

b. To the Bureau of Supplemental Security Income to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of verifying information provided to the SSA by applicants and recipients who are retired members of the Uniformed Services or their survivors for Supplemental Security Income (SSI) benefits. By law (42 U.S.C. 1383) the SSA is required to verify eligibility factors and other relevant information provided by the SSI applicant from independent or collateral sources and obtain additional information as necessary before making SSI determinations of eligibility, payment amounts or adjustments thereto.

6. To the Selective Service System (SSS) for the purpose of facilitating compliance of members and former members of the Armed Forces, both active and reserve, with the provisions of the Selective Service registration regulations (50 U.S.C. App. 451 and E.O. 11623).

7. To DoD Civilian Contractors and grantees for the purpose of performing research on manpower problems for statistical analyses.

8. To the Department of Labor (DOL) to reconcile the accuracy of unemployment compensation payments made to former DoD civilian employees and military members by the states. To the Department of Labor to survey military separations to determine the effectiveness of programs assisting veterans to obtain employment.

9. To the U.S. Coast Guard (USCG) of the Department of Transportation (DOT) to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of exchanging personnel and financial information on certain retired USCG military members, who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and to permit adjustments of military retired pay by the U.S. Coast Guard and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

10. To the Department of Housing and Urban Development (HUD) to provide data contained in this record system that includes the name, Social Security Number, salary and retirement pay for the purpose of verifying continuing eligibility in HUD's assisted housing programs maintained by the Public Housing Authorities (PHAs) and subsidized multi-family project owners or management agents. Data furnished will be reviewed by HUD or the PHAs with the technical assistance from the HUD Office of the Inspector General (OIG) to determine whether the income reported by tenants to the PHA or subsidized multi-family project owner or management agent is correct and complies with HUD and PHA requirements.

11. To Federal and Quasi-Federal agencies, territorial, state, and local governments to support personnel functions requiring data on prior military service credit for their employees or for job applications. To determine continued eligibility and help eliminate fraud and abuse in benefit programs and to collect debts and over payments owed to these programs. To assist in the return of unclaimed property or assets escheated to states of civilian employees and military member and to provide members and former members with information and assistance regarding various benefit entitlements, such as state bonuses for veterans, etc. Information released includes name, Social Security Number, and military or civilian address of individuals. To detect fraud, waste and abuse pursuant to the authority contained in the Inspector General Act of 1978, as amended (Pub.L. 95–452) for the purpose of determining eligibility for, and/or continued compliance with, any Federal benefit program requirements.

12. To private consumer reporting agencies to comply with the requirements to update security clearance investigations of DoD personnel.

13. To consumer reporting agencies to obtain current addresses of separated military personnel to notify them of potential benefits eligibility.

14. To Defense contractors to monitor the employment of former DoD employees and members subject to the provisions of 41 U.S.C. 423.

15. To financial depository institutions to assist in locating individuals with dormant accounts in danger of reverting to state ownership by escheatment for accounts of DoD civilian employees and military members.

16. To any Federal, state or local agency to conduct authorized computer matching programs regulated by the Privacy Act of 1974, as amended, (5 U.S.C. 552a) for the purposes of identifying and locating delinquent debtors for collection of a claim owed the Department of Defense or the Unites States Government under the Debt Collection Act of 1982 (Pub.L. 97–365) and the Debt Collection Improvement Act of 1996 (Pub.L. 104–134).

17. To state and local law enforcement investigative agencies to obtain criminal history information for the purpose of evaluating military service performance and security clearance procedures (10 U.S.C. 2358).

18. To the United States Postal Service to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purposes of:

a. Exchanging civil service and Reserve military personnel data to identify those individuals of the Reserve forces who are employed by the Federal government in a civilian position. The purpose of the match is to identify those particular individuals occupying critical positions as civilians and who cannot be released for extended active duty in the event of mobilization. The Postal Service is informed of the reserve status of those affected personnel so that a choice of terminating the position on the reserve assignment can be made by the individual concerned. The authority for conducting the computer match is contained in E.O. 11190, Providing for the Screening of the Ready Reserve of the Armed Forces.

b. Exchanging personnel and financial information on certain military retirees who are also civilian employees of the Federal government, for the purpose of identifying those individuals subject to a limitation on the amount of retired military pay they can receive under the Dual Compensation Act (5 U.S.C. 5532), and permit adjustments to military retired pay to be made by the Defense Finance and Accounting Service and to take steps to recoup excess of that permitted under the dual compensation and pay cap restrictions.

19. To the Armed Forces Retirement Home (AFRH), which includes the United States Soldier's and Airmen's Home (USSAH) and the United States Naval Home (USNH) for the purpose of verifying Federal payment information (military retired or retainer pay, civil service annuity, and compensation from the Department of Veterans Affairs) currently provided by the residents for computation of their monthly fee and to identify any unreported benefit payments as required by the Armed Forces Retirement Home Act of 1991, Pub.L. 101-510 (24 U.S.C. 414).

20. To Federal and Quasi-Federal agencies, territorial, state and local governments, and contractors and grantees for the purpose of supporting research studies concerned with the health and well being of active duty, reserve, and retired personnel or veterans, to include family members. DMDC will disclose information from this system of records for research purposes when DMDC:

a. has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

b. has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

c. has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy

the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

d. has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

21. To the Educational Testing Service, American College Testing, and like organizations for purposes of obtaining testing, academic, socioeconomic, and related demographic data so that analytical personnel studies of the Department of Defense civilian and military workforce can be conducted.

Note 3: Data obtained from such organizations and used by DoD does not contain any information which identifies the individual about whom the data pertains.

The 'Blanket Routine Uses' set forth at the beginning of the DLA compilation of record system notices apply to this record system.

Note 4: Military drug test information involving individuals participating in a drug abuse rehabilitation program shall be confidential and be disclosed only for the purposes and under the circumstances expressly authorized in 42 U.S.C. 290dd–2. This statute takes precedence over the Privacy Act of 1974, in regard to accessibility of such records except to the individual to whom the record pertains. The DLA's 'Blanket Routine Uses' *do not* apply to these types records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Retrieved by name, Social Security Number, occupation, or any other data element contained in system.

SAFEGUARDS:

Access to personal information at both locations is restricted to those who require the records in the performance of their official duties. Access to personal information is further restricted by the use of passwords which are changed periodically. Physical entry is restricted by the use of locks, guards, and administrative procedures.

RETENTION AND DISPOSAL:

Disposition pending.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address inquiries to the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

Written requests should contain the full name, Social Security Number, date of birth, and current address and telephone number of the individual.

CONTESTING RECORD PROCEDURES:

The DLA rules for accessing records, for contesting contents and appealing initial agency determinations are contained in DLA Regulation 5400.21, 32 CFR part 323, or may be obtained from the Privacy Act Officer, Headquarters, Defense Logistics Agency, ATTN: CAAR, 8725 John J. Kingman Road, Suite 2533, Fort Belvoir, VA 22060–6221.

RECORD SOURCE CATEGORIES:

The military services, the Department of Veteran Affairs, the Department of Education, Department of Health and Human Services, from individuals via survey questionnaires, the Department of Labor, the Office of Personnel Management, Federal and Quasi-Federal agencies, and the Selective Service System.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–28674 Filed 11–3–99; 8:45 am]

BILLING CODE 5001–10–F

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to add systems of records.

SUMMARY: The Department of the Navy proposes to add a system of records notice to its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This action will be effective on December 6, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (N09B30), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT:

Mrs. Doris Lama at (202) 685–6545 or DSN 325–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on October 20, 1999, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996, (61 FR 6427, February 20, 1996).

Dated: October 27, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

N06150–4

SYSTEM NAME:

DoD Birth Defects Registry.

SYSTEM LOCATION:

Naval Health Research Center, Emerging Illness Division, PO Box 85122, San Diego, CA 92186–5122.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DoD beneficiary infants born in both military and civilian medical facilities beginning January 1, 1999, and their parents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Demographic data and health data related to the birth defect.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 131, Office of the Secretary of Defense; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 2358, Research and Development Projects; E.O. 9397 (SSN); and OASD/HA Policy for National Surveillance for Birth Defects Among Department of Defense (DoD) Health care Beneficiaries Clinical Policy 99–006 dated November 17, 1998.

PURPOSE(S):

To determine those birth defects that are most common within this population; to provide information regarding increases, if any, in the incidence of specific malformations; to compare rates stratified by beneficiary status (military or dependent) and among active-duty personnel, by occupation; to identify geographical or military service-related areas of reproductive concern for cluster analysis; to identify any correlation of rates of defects with changing trends in cultural, social, and environmental factors; and to provide a data repository that future investigators and policy makers might use to study militarily important birth defects hypotheses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 522a(b)(3) as follows:

To the Social Security Administration (SSA) for considering individual claims for benefits for which SSA is responsible.

To the Department of Veterans Affairs (DVA) for considering individual claims for benefits for which the DVA is responsible, and for use in scientific, medical and other analysis regarding reproductive outcomes research associated with military service.

To the Department of Health and Human Services, Centers for Disease Control and Prevention and state birth defect registries for use in scientific, medical and other analysis regarding reproductive outcomes research associated with military service.

The ''Blanket Routine Uses'' that appear at the beginning of the Navy's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Automated databases; electronic records are stored on magnetic media.

RETRIEVABILITY:

Records are retrieved by military sponsor's name and Social Security Number.

SAFEGUARDS:

Access to areas where records are maintained is limited to authorized personnel. Areas are protected by access control devices during working hours and intrusion alarm devices during non-duty hours. Access to data is provided on need-to-know basis only. Access to data is controlled by password or other user code.

RETENTION AND DISPOSAL:

Disposition pending (until NARA disposition is approved, treat as permanent). The files will be maintained at the Naval Health Research Center, Emerging Illness Division, PO Box 85122, San Diego CA 92186–5122. Any paper copies which are generated are shredded following data entry/analysis; electronic copies will be maintained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commanding Officer, Naval Health Research Center, Box 85122, San Diego, CA 92186–5122.

Record Holder: Senior Investigator, DoD birth Defects Registry, Naval Health Research Center, Emerging Illness Division, PO Box 85122, San Diego, CA 92186–5122.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Senior Investigator, DoD Birth Defects Registry, Naval Health Research Center, Emerging Illness Division, PO Box 85122, San Diego, CA 92186–5122.

The request should contain name and Social Security Number of military sponsor to effect a search and must be signed by the individual requesting the information.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Senior Investigator, DoD Birth Defects Registry, Naval Health Research Center, Emerging Illness Division, PO Box 85122, San Diego, CA 92186–5122.

The request contain name and Social Security Number of military sponsor to effect a search and must be signed by the individual requesting the information.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Composite Health Care System (CHCS); Corporate Executive Information Systems (CEIS); Defense Manpower Data Center (DMDC); Defense Enrollment Eligibility Reporting System (DEERS); Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); and medical records at Naval Medical Center, San Diego.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–28676 Filed 11–3–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of partially closed meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: November 18–20, 1999.

TIME: November 18—Subject Area Committee #1, 3:30–5:30 p.m., (open); Design and Methodology Committee, 3:30–5:30 p.m., (open); and Executive Committee, 5:30–6:15 p.m., (open);

6:15–7:00 p.m. (closed). November 19—Full Board, 8:30–10:00 a.m., (open); Joint Meeting of Achievement Levels and Reporting and Dissemination Committees, 10:00–10:30 a.m., (open); Joint Meeting Achievement Levels Committee and Subject Area Committees 1 and 2, 11:00–11:30 a.m; Subject Area Committees #2, 11:00–11:30 a.m., (open); 11:30 a.m.–12 noon, (closed); Achievement Levels Committee, 11:30 a.m.–12:00 noon, (open); Reporting and Dissemination Committee, 10:30 a.m.–12:00 noon, (open); Full Board, 12:00 noon–4:30 p.m., (open). November 20—Full Board, 8:30 a.m. until adjournment, approximately 11:30 a.m., (open).

LOCATION: Madison Hotel, 15th and M Streets, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW, Washington, D.C., 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994) (P.L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Education Progress, (NAEP). The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons. Under P.L. 105–78, the National Assessment Governing Board is also granted exclusive authority over developing the Voluntary National Tests, (VNT) pursuant to contact number RJ9753001.

On Thursday, November 18, there will be meetings of three committees of the Governing Board. Subject Area Committees #1 will meet from 3:30–5:30 p.m. to discuss the NAEP Foreign Language framework development project; the NAEP writing online study; and the National Academy Year 2 Evaluation of the Voluntary Nation test in reading.

The Design and Methodology Committee will meet from 3:30–5:30 p.m. to review the technical issues and the inclusion and accommodations chapters of the NRC Report: Evaluation of the VNT, Year 2. The Committee will hear the proposed field test design for the VNT and take action on the proposed plans for VNT in FY 2000. For the National Assessment of Educational Project, the Committee will take action on two draft policies: NAEP short-form, and NAEP testing window. Also, the Committee will hear a progress report on the NAS evaluation of NAEP.

The Executive Committee will meet from 5:30 to 6:15 p.m. in open session. In the open session the Executive Committee will review the final appropriations bill; consider plans for the Voluntary National Tests; develop new initiatives for NAGB; hear an update on NAGB redesign issues. Then the Executive Committee will meet in closed session from 6:15 to 7:00 p.m. The Committee will discuss the development of cost estimates for NAEP and future contract initiatives. This portion of the meeting must be conducted in closed session because public disclosure of this information would likely have an adverse financial effect on the NAEP program. The discussion of this information would be likely to significantly frustrate implementation of a proposed agency action if conducted in open session. Such matters are protected by exemption 9(B) of Section 552b(c) of Title 5 U.S.C.

On November 19, the full Board will convene in open session beginning at 8:30 a.m. The agenda for this session of the full Board meeting includes approval of the agenda. Also, the morning agenda will include a report from the Executive Director, and an update of the NAEP project. This session will conclude with the administration of the oath of office to new members and remarks by the Secretary of Education.

Subject Area Committee #2 will meet in open session from 10:00–11:00 a.m. to discuss the National Academy Year 2 Evaluation of the Voluntary National Test in Mathematics.

From 11:00–11:30 a.m., Subject Area Committees 1 and 2, and the Achievement Levels Committee will meet in joint session to hear a presentation on the use of technology in the development, delivery, and analysis of NAEP assessments of the future.

Subject Area Committee #2 will meet in closed session from 11:30 a.m.–12:00 noon to review a draft RFP for the NAEP math online study. This meeting must be conducted in closed session because public disclosure of this information would likely have an adverse financial effect on the NAEP program. The discussion of this information would be likely to significantly frustrate implementation of a proposed agency action if conducted in an open session. Such matters are protected by exemption 9(B) of section 552b(c) of Title of 5 U.S.C.

There will be open meetings of the Achievement Levels and Reporting and Dissemination Committees. From 10:00–10:30 a.m., the Achievement Levels and the Reporting and Dissemination Committees will meet in joint to receive a briefing on a report to Congress concerning the public perception of achievement levels.

From 11:00 a.m.–12:00 noon, the Achievement Levels Committee will review the preliminary findings from the VNT Achievement Levels study. The Reporting and Dissemination Committee will hear an update on ''market-basket'' reporting of NAEP results; review categories of race/ethnicity reporting; review the work plan on score reporting for proposed VNT; and will hear an update on district-level reporting.

The full Board will reconvene 12:00 noon to 4:30 p.m. The agenda includes a briefing on the NAEP 1998 Civics Report Card; an update and discussion on NAEP, NAGB, and VNT legislation; an update on a report to Congress on Achievement Levels, and a report on ALLSTATES 2000. The Board recess is scheduled for 4:30 p.m.

On Saturday, November 20 the full Board will meet in open session from 8:30 a.m. until adjournment, approximately 11:30 a.m. The agenda for this session is an update on the NAEP Foreign Language Framework and the presentation of reports from the various Board committee meetings.

A summary of activities of the closed and partially close sessions and other related matters which are informative to the public and consistent with the policy of the section 5 U.S.C. 552b(c), will be available to the public within 14 days after the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite #825, 800 North Capitol Street, NW, Washington, D.C. from 8:30 a.m. to 5:00 p.m.

Dated: November 1, 1999.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 99–28940 Filed 11–3–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Web-Based Education Commission; Meeting

AGENCY: Office of Postsecondary Education, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for the first meeting of the Web-Based Education Commission. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend this meeting.

DATES: The meetings will be held on November 16, from 3:00–5:00 p.m. and on November 17, 1999 from 9:00 a.m. to 12:00 p.m.

ADDRESSES: The meetings will be held at 366 Dirksen Senate Office Building, Washington, DC 20510.

FOR FURTHER INFORMATION CONTACT: Dr. Jay Noell, Designated Federal Official, Web-Based Education Commission, U.S. Department of Education, 400 Maryland Avenue, SW, ROB–3, Room 4020, Washington, DC 20202. Telephone: (202) 708–5620. Fax: (202) 260–5872. The e-mail address for M. Noell is: jay__noell@ed.gov.

SUPPLEMENTARY INFORMATION: The Web-Based Education Commission is authorized by Title VIII, Part J of the Higher Education Amendments of 1998. This commission will conduct a thorough study to assess the educational software available in retail markets for secondary and postsecondary students who choose to use such software. The commission will issue a final report to the President and the Congress, not later than six months after this first meeting on November 9, 1999. The final report will contain a detailed statement of the commission's findings and conclusions, as well as recommendations. Recommendations will address legislative and administrative actions the commission considers appropriate, and what it regards as the appropriate federal role in determining the quality of educational software products. At this initial meeting of the Web-Based Education Commission, commissioners will elect a chairperson and establish an agenda. This meeting is open to the public.

Due to scheduling problems associated with unusual circumstances, this notice is not published for at least 15 calendar days prior to the first meeting, as allowed by 41 CFR 101–6.1015(b)(2).

Program Authority: Title VIII, Part J. Higher Education Amendments of 1998.

Dated: October 29, 1999.

Claudio Prieto,

Acting Assistant Secretary Office of Postsecondary Education.

[FR Doc. 99–28840 Filed 11–3–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Fossil Energy; National Coal Council; Notice of Charter Renewal

AGENCY: Department of Energy.

ACTION: Notice of charter renewal.

SUMMARY: Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act (Pub. L. 92–463) and in accordance with title 41 of the Code of Federal Regulations, sections 101-6.1029 (c) 101–6.1007, and following consultation with the Committee Management Secretariat of the General Services Administration, notice is hereby given that the National Coal Council has been renewed for a two-year period ending November 1, 2001. The Council will continue to provide advice, information, and recommendations to the Secretary of Energy on a continuing basis, regarding general policy matters relating to coal issues.

SUPPLEMENTARY INFORMATION: Council members are chosen to assure a well-balanced representation from all sections of the country, all segments of the coal industry, including large and small companies, and commercial and residential consumers. The Council also has diverse members who represent interests outside the coal industry, including environmental interests, labor, research, and academia. Membership and representation of all interests will continue to be determined in accordance with the requirements of the Federal Advisory Committee Act, and implementing regulations.

The renewal of the Council has been determined essential to the conduct of the Department's business and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Council will continue to operate in accordance with the provisions of the Federal Advisory Committee Act and implementing regulations.

FOR FURTHER INFORMATION CONTACT: Rachel M. Samuel at 202/586–3279.

Issued at Washington, DC on: November 1, 1999.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. 99–28933 Filed 11–3–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Fossil Energy, National Petroleum Council; Notice of Charter Renewal

AGENCY: Department of Energy.

ACTION: Notice of charter renewal.

SUMMARY: Pursuant to Section 14(a)(2)(A) of the Federal Advisory Committee Act (Pub. L. 92–463) and in accordance with title 41 of the Code of Federal Regulations, sections 101–6.1029 (c) and 101–6.1007, and following consultation with the Committee Management Secretariat of the General Services Administration, notice is hereby given that the National Petroleum Council has been renewed for a two-year period ending November 1, 2001. The Council will continue to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industry.

SUPPLEMENTARY INFORMATION: Council members are chosen to assure a well-balanced representation from all sections of the country, all segments of the petroleum industry, and from large and small companies. The Council also has diverse members who represent interest outside the petroleum industry, including representatives from environmental, labor, research, academia, and State utility regulatory commissions. Membership and representation of all interests will continue to be determined in accordance with the requirements of the Federal Advisory Committee Act, and implementing regulations.

The renewal of the Council has been determined essential to the conduct of the Department's business and in the public interest in connection with the performance of duties imposed upon the Department of Energy by law. The Council will operate in accordance with the Federal Advisory Committee Act and implementing regulations.

FOR FURTHER INFORMATION CONTACT: Rachel M. Samuel at (202) 586–3279.

Issued at Washington, DC on November 1, 1999.

James N. Solit,

Advisory Committee Management Officer.

[FR Doc. 99–28934 Filed 11–3–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2843–009]

AES Redondo Beach, LLC; Notice of Filing

October 29, 1999.

Take notice that on October 19, 1999, and on October 20, 1999, the California Independent System Operator

Corporation (ISO), tendered for filing with the Federal Energy Regulatory Commission the ''Report on Redesign of California Real-Time Energy and Ancillary Services Markets'' prepared by Frank Wolak, Chairman of the ISO's Market Surveillance Committee, in compliance with the Commission's October 28, 1998 Order and May 26, 1999 Order in the above-captioned proceedings. The ISO has served the report upon each person on the official service list in the above-captioned proceeding.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before November 9, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a part must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–28870 Filed 11–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP87–203–007]

CNG Transmission Corporation; Notice of Availability of the Environmental Assessment for the Proposed CNG Transmission Corporation Tioga Expansion Project

October 29, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on both the natural gas storage field and pipeline facilities proposed by CNG Transmission Corporation (CNG) in the above-referenced docket.

The purpose of the proposed facilities would be to maintain CNG's current certificated deliverability of the Tioga Storage Pool in Tioga County, Pennsylvania. In addition, CNG requests authorization to expand the boundaries of the Tioga Storage Pool to reflect the current area used for gas storage operations. CNG also seeks authorization for a 2,000 foot protective boundary around the active limits of the storage pool.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

Specifically, the EA assesses the potential environmental effects of the construction and operation of CNG's proposed modifications to the Tioga Storage Pool and related pipeline facilities including:

- The operation of four storage wells (well Nos. TW–209, TW–707, TW–708, and TW–800) which were previously drilled as observation wells and converted to storage wells in 1989 (well No. TW–209), March 20, 1995 (well No. TW–707), and December 31, 1996 (well Nos. TW–708 and TW–800) and the interconnecting 50 feet, 8.625-inch-diameter pipeline; 169 feet of 6.625-inch-diameter pipeline, 1,680 feet of 6.625-inch-diameter pipeline, and 1,851 feet of 4.5-inch-diameter pipeline, respectively;
- Conversion of observation well Nos. TW–605 and TW–403 to storage wells; and
- Construction of 536 feet of 6-inch-diameter (LN–2465–S) and 1,117 feet of 4-inch-diameter pipeline (LN–2464–S) to connect well Nos. TW–605 and TW–403 to existing gas storage pipeline facilities.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 208–1371.

Copies of the EA has been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send *two* copies of your comments to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Room 1A, Washington, DC 20426;
- Label *one* of those copies for the attention of the Environmental Review and Compliance Branch II, PR–11.2;
- Reference Docket No. CP87–203–007; and
- Mail your comments so that they will be received in Washington, DC on or before November 29, 1999.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file later interventions must show good cause, as required by sections 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for later intervention. You do not need intervenor status to have your comments considered.

Additional information about the proposed project is available from Paul McKee in the Commission's Office of Extenal Affairs, at (202) 208–1088 or on the FERC Internet website (www.ferc.fed.is) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions, For assistance with access to CIPS, and CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–28824 Filed 11–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–13–002]

East Tennessee Natural Gas Company; Notice of Negotiated Rate Filing

October 29, 1999.

Take notice that on October 25, 1999, East Tennessee Natural Gas Company (East Tennessee), P.O. Box 2511, Houston, Texas 77252, tendered for filing an original and five (5) copies of the Firm Transportation Service Agreements and all related documents under Rate Schedules FT–A and FT–GS, and Liquefied Natural Gas Storage (LNGS) Agreements (the Firm Service Agreements) listed in and attached as Appendix A to the filing. East Tennessee is also submitting for approval an original and five (5) copies of the Firm Transportation Rate Adjustment Letter Agreements and Firm Storage Rate Adjustment Letter Agreements (collectively, the Letter Agreements) listed in and attached as Appendix B to the filing. East Tennessee states that the Letter Agreements detail fifty-two negotiated rate arrangements between East Tennessee and the customers identified in Appendix A (the Firm Customers) for transportation and storage service, as applicable, under the Firm Service Agreements (referred to collectively as the Negotiated Rate Arrangements).

East Tennessee requests that the Commission approve the Negotiated Rate Arrangements to be effective on November 1, 1999.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 999 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–28826 Filed 11–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–33–000]

Michigan Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

October 29, 1999.

Take notice that on October 25, 1999, Michigan Gas Storage Company (MGSCo) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1 the tariff sheets attached as Appendix A to the filing, to become effective December 1, 1999.

The revised cover sheet and Second Revised Tariff Sheet No. 56 reflect the naming of a new President of MGSCo. Second Revised Tariff Sheet No. 2 (Preliminary Statement) reflects updated information about MGSCo's corporate parent. All of the rest of the revised sheets are from Forms of Service Agreement and are being revised to accommodate dates later than December 31, 1999. None of the changes affect rates or services.

MGSCo states that a copy of this filing is available for public inspection during regular business hours at MGSCo's offices at 212 W. Michigan Avenue, Jackson, MI 49201. In addition, copies of this filing are being served on all customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–28828 Filed 11–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commision

[Docket No. RP00–32–000]

Nautilus Pipeline Company, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

October 29, 1999.

Take notice that on October 25, 1999, Nautilus Pipeline Company, L.L.C. (Nautilus) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, revised tariff sheet no. 166 proposed to be effective September 1, 1999.

The purposed of this filing is to change the Natural Gas Intelligence Weekly Gas Price Index to reflect the ''Louisiana-Regional Avg.'' as the previous index price of ''South Louisiana Region, Interstate Avg. (On)'' has been discounted effective September 1, 1999.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–28829 Filed 11–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–29–000]

Transcontinental Gas Pipe Line Corporation; Notice of proposed Changes in FERC Gas Tariff

October 29, 1999.

Take notice that on October 21, 1999 Transcontinental Gas Pipe Line Corporation (Transco) tendered for

filing with the Federal Energy Regulatory Commission (Commission) Twenty Third Revised Sheet No. 50 to its FERC Gas Tariff, Third Revised Volume No. 1. The attached tariff sheet is proposed to be effective November 1, 1999.

Transco states that the purpose of the instant filing is to track fuel percentage changes attributable to transportation service purchased from Texas Gas Transmission Corporation (Texas Gas) under its Rate Schedule FT the costs of which are included in the rates and charges payable under Transco's Rate Schedule FT–NT. The filing is being made pursuant to tracking provisions under Section 4 of Transco's Rate Schedule FT–NT.

Included in Appendix B attached to the filing are the explanations of the fuel percentage changes and details regarding the computation of the revised Rate Schedule FT–NT fuel percentages.

Transco states that copies of the filing are being mailed to each of its FT–NT customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Pubic Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–28827 Filed 11–3–99 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Third Party Contractors Qualified To Prepare Environmental Impact Statements Under the Provisions of Section 2403(a) of the Energy Policy Act of 1992

October 29, 1999.

On April 9, 1999, the Federal Energy Regulatory Commission (Commission) solicited in the Commerce Business Daily, qualification statements from contractors seeking status to prepare environmental impact statements under the third party contracting provisions of section 2403(a). Qualified contractors will be available for selection by potential licensees with oversight by the Commission to prepare third party environmental impact statements.

A technical panel of 7 Commission employees independently evaluated the statements of qualifications submitted. The panel has determined that 28 contractors meet the qualifications; their names are listed below.

1. Burns and McDonnell Engineering Co., Inc.
2. Tams Consultants, Inc.
3. EDAW Inc.
4. Parametrix, Inc.
5. Parsons Brinckerhoff Quade & Douglas, Inc.
6. Greystone
7. EA Engineering, Science and Technology, Inc.
8. Environmental Sciences Associates
9. Normandeau Associates, Inc.
10. Dames and Moore
11. Louis Berger and Associates, Inc.
12. Stone and Webster
13. Kleinschmidt Associates
14. Environmental Resources Management (ERM)
15. ICF Kaiser Consulting Group, Inc.
16. Maxim Technologies, Inc.
17. Gomez and Sullivan Engineers, Inc.
18. Bechtel National Inc.
19. KEA Environmental, Inc.
20. Fish and Wildlife Associates, Inc.
21. Harza Engineering Company
22. Jones and Stokes Associates, Inc.
23. Versar, Inc.
24. HDR Engineering, Inc.
25. Mead and Hunt, Inc.
26. Entrix, Inc.
27. CH2M Hill, Inc.
28. Acres International Corp.

Subsequent updating of this source list will be done on an as needed basis depending on: (1) Additional contractors wishing to be added to the list; (2) listed contractors wishing to be removed from the list; and (3) contractor determined to be no longer qualified by the Commission to remain on the list. The list of qualified contractors and information on how to apply for qualification will be available on the web at *http:www.ferc.fed.us.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–28823 Filed 11–3–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of License Application Amendment for Applicant Name Change

October 29, 1999.

Take notice that the following hydroelectric application amendment has been filed with the Commission and is available for public inspection:

a. *Type of Filing:* Notice of License Application Amendment.

b. *Project No.:* 4738–002.

c. *Date Filed:* Ocober 13, 1999.

d. *Applicant:* McGrew, McMaster, Koch, and the city of Tacoma, Washington—previous applicant; McGrew & Associates (DBA Renewables, Inc.)—new applicant.

e. Name of Project: Glacier Creek Hydroelectric Project.

f. *Location:* Proposed to be located on Glacier Creek, a tributary of the North Fork Nooksack River in Whatcom County, Washington. The project would occupy federal lands administered by the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Thomas R. Childs, McGrew & Associates (DBA Renewables, Inc.), P.O. Box 1691, Bellingham, WA, *renewables@worldnet.att.net* (360) 734–0923.

i. *FERC Contact:* Tom Dean, *thomas.dean@ferc.fed.us,* (202) 219–2778.

j. *Locations of the application:* A copy of the application is available for insepection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 219–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (Call (202) 208–2222 for assistance). A copy is also available for inspection and

reproduction at the address in item h above.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–28825 Filed 11–3–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–100151; FRL–6386–3]

Dynamac Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be tranferred to Dynamac Corporation in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Dynamac Corporation has been awarded this contract to perform work for OPP, and access to this information will enable Dynamac Corporation to fulfill the obligations of the contract.

DATES: Dynamac Corporation will be given access to this information on or before November 9, 1999.

FOR FURTHER INFORMATION CONTACT: By mail: Erik R. Johnson, FIFRA Security Officer, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (703) 305–7248; e-mail address: johnson.erik@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under ''FOR FURTHER INFORMATION CONTACT.''

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**--Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

The Agency has established an official record for this action under docket control number OPP–100151. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Contractor Requirements

Under contract number 68–W9–9053, the contractor will perform the following: (1) Support EPA's Health Effects Division, Office of Pesticides Programs, in the registration and reregistration of pesticides under the mandates of FIFRA, FFDCA, and the Food Quality Protection Act of 1996; (2) support EPA cooperative efforts with the Food and Drug Administration and the United States Department of Agriculture in monitoring pesticides; and (3) support EPA cooperative efforts with the Codex Alimentarius Commission of the Joint Food and Agriculture Organization/World Health Organization, North American Free Trade Agreement and Canadian and United States Trade Agreement members with review of product and chemistry data on pesticides.

This contract involves no subcontractors.

OPP has determined that the contract described in this document involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contract with Dynamac Corporation, prohibits use of the information for any purpose not specified in this contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, Dynamac Corporation is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Dynamac Corporation until the requirements in this document have been fully satisfied. Records of information provided to Dynamac Corporation will be maintained by EPA Project Officers for this contract. All information supplied to Dynamac Corporation by EPA for use in connection with this contract will be returned to EPA when Dynamac Corporation has completed its work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: October 25, 1999.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 99–28889 Filed 11–3–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6470–3]

National Environmental Justice Advisory Council; Notification of Meeting and Public Comment Period(s); Open Meetings

Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, we now give notice that the National Environmental Justice Advisory Council (NEJAC), along with

the various subcommittees will meet on the dates and times described below. All times noted are Eastern Standard Time. All meetings are open to the public. Due to limited space, seating at the NEJAC meeting will be on a first-come basis. Documents that are the subject of NEJAC reviews are normally available from the originating EPA office and are *not* available from the NEJAC. The NEJAC and subcommittee meetings will take place at the Crystal City Hilton at National Airport, 2399 Jefferson Davis Highway, Arlington, Virginia 22202. The meeting dates are as follows: November 30, 1999 through December 2, 1999. This is the first in a series of focused policy issue meetings for the NEJAC. To help prepare for this specific focused policy issue meeting the following background information is provided:

Request

The Charter for the National Environmental Justice Advisory Council (NEJAC) states that NEJAC shall provide independent advice to the Administrator on areas relating to environmental justice that may include, among other things, ''EPA's framework for integrating socioeconomic planning, annual planning and management accountability for achieving environmental justice results agencywide.'' In order to provide such independent advice, the Agency, through the Office of Environmental Justice (OEJ), requests that the NEJAC convene a focused and issue-oriented public meeting in Washington, D.C. to receive comments, discuss, and analyze a major public policy issue. The Agency, furthermore, requests that the NEJAC produce a comprehensive report on the differing views, interests, concerns, and perspectives expressed by the stakeholder participants on the issue, and provide advice and recommendations for the Agency's review and consideration.

Issue

In order to secure protection from environmental degradation for all citizens, what factors should be considered by a federal permitting authority, as well as state or local agencies with delegated permitting responsibilities, in the decision-making process prior to allowing a new pollution-generating facility to operate in a minority and/or low-income community that may already have a number of such facilities?

Background

Federal statutes, many of which are implemented by state and local permitting authorities, have established criteria for, or methods of, administering their permit programs. Typically, these permit programs have not taken into consideration the composition of the community affected by a proposed pollution-generating facility. Moreover, these permit programs frequently do not list as issues to be considered by regulators such factors as quality-of-life, aesthetic, historic, cultural, economic, or social impacts or issues such as the adequacy of meaningful public participation. Although permitting programs are required to consider ecological and health impacts, the evaluations tend not to be oriented towards the issues confronting minority and/or low-income communities.

Discussion

Staff in the EPA Office of General Counsel (OGC) has conducted a preliminary analysis of the Agency's permitting statutes and regulations that suggests there are opportunities for addressing environmental justice situations. (Memorandum dated June 25, 1996) Professor Richard Lazarus, as a member of the NEJAC's Enforcement Subcommittee, authored at the request of NEJAC a subsequent memorandum which further explored the implications of OGC's initial analysis. (Memorandum dated July 18, 1996) The NEJAC adopted at its December 10–12, 1996, meeting a resolution requesting the EPA to undertake a comprehensive survey of its existing statutory and regulatory authority to promote environmental justice under existing statutory authorities. These memoranda identified opportunities under seven statutes and their implementing regulations, *i.e.,* CAA, CWA, CERCLA, RCRA, EPCRA, TSCA, and FIFRA. To address instances of environmental injustice through the implementation of the existing statutes and regulations, the EPA may, in some cases, need to issue regulations: in other instances, the EPA may have to issue appropriate guidance.

Meeting

Registration for the NEJAC meeting will begin on Tuesday, November 30, 1999 at 8:00 a.m. A focused ''policy issue'' public comment period has a been scheduled for Tuesday, November 30, 1999 from 6:00 p.m. to 9:00 p.m. On Wednesday, December 1, 1999, an ''all other EJ issues'' public comment period has been scheduled from 6:00 p.m. to 9:00 p.m. The full NEJAC will convene Tuesday, November 30, 1999, from 8:00 a.m. to 9:00 p.m., and on Wednesday, December 1, 1999, from 8:00 a.m. to 5:00 p.m. Business will include a series of panels with expert testimony on the focused policy issue, a review of ongoing NEJAC activities and a discussion of new business items. All subcommittees of the NEJAC, will meet on Wednesday, December 1, 1999, from 8:00 a.m. to 4:30 p.m. Any member of the public wishing additional information on the subcommittee meetings should contact the specific Designated Federal Official at the telephone number listed below.

Subcommittee and Federal Official and Telephone Number

Enforcement—Ms. Shirley Pate, 202/564–2607
Health & Research—Mr. Lawrence Martin, 202/564–6497; Mr. Chen Wen, 202/260–4109
International—Ms. Wendy Graham, 202/564–6602
Indigenous Peoples—Mr. Danny Gogal, 202/564–2576; Mr. Tony Hanson, 202/260–8106
Waste/Facility Siting—Mr. Kent Benjamin, 202/260–2822
Air & Water—Mr. Will Wilson, 202/564–1954; Ms. Alice Walker, 202/260–1919

Members of the public who wish to participate in one of the public comment periods should register to do so by November 22, 1999. Individuals or groups making oral presentations during the public comment period will be limited to a total time of five minutes. Only one representative from a community, organization, or group will be allowed to speak. Any number of written comments can be submitted for the record. The suggested format for individuals making public comment should be as follows:

SPEAKER'S TEMPLATE
NAME OF SPEAKER: _____
NAME OF ORGANIZATION/COMMUNITY: _____
ADDRESS/PHONE/FAX/EMAIL: _____
DESCRIPTION OF CONCERN: _____
RECOMMENDATIONS/DESIRED OUTCOME: _____

If you wish to submit written comments of any length (at least 50 copies), they should also be received by November 22, 1999. Comments received after that date will be provided to the Council as logistics allow. Correspondence concerning registration should be sent to Tama Clare of Tetra Tech Environmental Management, Inc. at: 1881 Campus Commons, Suite 200, Reston, VA 20191, phone: 703/390–0641 or fax: 703/391–5876. Hearing-impaired individuals or non-English speaking attendees wishing to arrange for a sign language or foreign language interpreter, may make appropriate arrangements using these numbers also.

In addition, NEJAC offers a toll-free Registration Hotline at 888/335–4299. For on-line registration, you may visit the Internet site: http://www.epa.gov/oeca/oej/nejac/register.

Dated: October 28, 1999.

Charles Lee,

Designated Federal Official, National Environmental Justice Advisory Council.

[FR Doc. 99–28884 Filed 11–3–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34200; FRL–6384–9]

Notice of Receipt of Requests for Amendments to Delete Uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on May 2, 2000.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Rm., 224, Crystal Mall 2 (CM #2), 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5761; e-mail: hollins.james@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to persons who produce or use pesticides, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov. To access this document, on the Home page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register**--Environmental Documents.'' You can also go directly to the **Federal Register** listing at http://www.epa.gov/fedrgstr/.

2. *In person*. The Agency has established an official record for this action under docket control number [OPP–34200]. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents.

The public version of the official record does not include any information claimed as CBI. The public version o this official record, which includes printed, paper versions of any electronic comments submitted during as applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. What Action is the Agency Taking?

This notice announces receipt by the Agency of applications from registrants to delete uses in certain pesticide registrations. These registrations are listed in the following Table 1 by registration number, product name/active ingredient and specific uses deleted:

Table 1 -- Registrations with Requests for Amendments to Delete Uses In Certain Pesticide Registrations

EPA Reg. No.	Product Name (Active Ingredient)	Delete From Label
002935–00414 ...	Nu-Flow D (Chloroneb)	Use on cotton
010163–00245 ...	Methidathion Technical (Methidathion)	Use on potatoes & sorghum
034704–00066 ...	Clean Crop Chlorpyrifos 4E Insecticide (Chlorpyrifos)	Control of fire ants in commercial sod
067760–00023 ...	Cyren Turf & Ornamental Insecticide (Chlorpyrifos)	Use on popcorn, cherries, citrus, field & sweet corn, peaches, nectarines, peanuts, sunflowers, sugarbeets, tree fruits

Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before May 2, 2000 to discuss withdrawal of the application for amendment. This 180–day period will also permit interested members of the public to intercede with registrants prior to the Agency's approval of the deletion.

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

Table 2 -- Registrants requesting Amendments to Delete Uses in Certain Pesticide Registrations

EPA Company Number	Company Name and Address
002935	Wilbur-Ellis Company, 191 W. Shaw Avenue, Suite 107, Fresno, CA 93704.
010163	Gown Company, P.O. Box 5569, Yuma, AZ 85366.
034704	Platte Chemical Co., 419 18th St., P.O. Box 667, Greeley, CO 80632.

Table 2 -- Registrants requesting Amendments to Delete Uses in Certain Pesticide Registrations—Continued

EPA Company Number	Company Name and Address
067760	Cheminova, Inc., 1700 Route 23, Suite 210, Wayne, NJ 07470.

III. What is the Agency Authority for Taking This Action?

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the **Federal Register**. Thereafter, the Administrator may approve such a request.

IV. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for use deletion must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked May 2, 2000.

V. Provisions for Disposition of Existing Stocks

The Agency has authorized the registrants to sell or distribute product under the previously approved labeling for a period of 18–months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection,

Dated: October 4, 1999.

Richard D. Schmitt,

Acting Director, Information Resources & Services Division.

[FR Doc. 99–28890 Filed 11–3–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6458–9]

Sanders Aviation Superfund Site, Proposed Notice of Administrative Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Sanders Aviation Superfund Site in Tempe, Arizona with the Alfred P. Sanders Trust (''Trust'') and the trustees of the Trust. Pursuant to the Agreement, the Trust will arrange for the sale of the Trust property. Seventy-five percent of the proceeds of the sale will be paid to the Hazardous Substance Superfund and twenty-five percent will be paid to the Trust. This allocation is a close approximation of the costs each party has contributed to cleaning up the site. The settlement includes a covenant not to sue the settling parties pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606, 9607(a). For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. EPA will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate.

The United States' response to any comments received will be available for public inspection at the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105.

DATES: Comments must be submitted on or before December 6, 1999.

ADDRESSES: Comments should reference the Sanders Aviation Removal Site, Tempe, Arizona and EPA Docket No. 99–06 and should be addressed to Kara Christenson, Office of Regional Counsel, U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105.

AVAILABILITY: The proposed settlement is available for public inspection at the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105. A copy of the proposed settlement may be obtained from Kara Christenson, Office of Regional Counsel U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105; and at the Tempe Public Library, 3500 South Rural Road, Tempe, Arizona.

FOR FURTHER INFORMATION CONTACT: Kara Christenson, Office of Regional Counsel U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, CA 94105, telephone: (415) 744–1330.

Dated: October 25, 1999.

Michael Feeley,

Deputy Director, Superfund Division, Region IX.

[FR Doc. 99–28885 Filed 11–3–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–53171A; FRL–6097–7]

Category for Persistent, Bioaccumulative, and Toxic New Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Policy statement.

SUMMARY: EPA groups new chemical substances with similar structural and toxicological properties into categories to facilitate premanufacture assessment and regulation. These groupings enable both Toxic Substances Control Act (TSCA) section 5(a)(1) Premanufacture Notice (PMN) submitters and EPA reviewers to benefit from accumulated data and decisional precedents and have streamlined the process for Agency review of and regulatory follow-up on new chemical substances. Consistent with TSCA section 26(c), which allows EPA action under TSCA with respect to categories of chemical substances or mixtures, EPA is issuing this policy statement regarding a category of persistent, bioaccumulative, and toxic (PBT) new chemical substances.

DATES: This document will become effective January 3, 2000.

FOR FURTHER INFORMATION CONTACT: For general information contact: Christine Augustyniak, Associate Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone numbers: 202–554–1404 and TDD: 202–554–0551; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Kenneth Moss, Chemical Control Division (7405), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: 202–260–3395; fax number: 202–260–0118; e-mail address: moss.kenneth@epa.gov.

SUPPLEMENTARY INFORMATION: On October 5, 1998 (63 FR 53417) (FRL–5571–6), EPA published a **Federal Register** notice soliciting comments on proposed criteria for identifying PBT chemical substances and their supporting scientific rationale. This policy statement responds to comments on the proposed criteria for identifying PBT new chemical substances and their supporting scientific rationale. Please consult the October 5, 1998 (63 FR 53417) **Federal Register** notice for further information on the TSCA new chemicals program. The docket control

number for this document is OPPTS–53171A.

I. General Information

A. Does This Document Apply to Me?

You may be potentially affected by this document if you are or may in the future be a submitter of a PMN under TSCA. Potentially affected entities may include, but are not limited to the following:

Category	NAICS Code	SIC Codes	Examples of Potentially Affected Entities
Chemical manufacturers or importers	325, 32411	28, 2911	Anyone who plans to manufacture or import a new chemical substance (as defined in TSCA Section 3) for a non-exempt commercial purpose is required to provide the EPA with a PMN at least 90 days prior to the activity. Any TSCA chemical substance that is not on the TSCA Inventory is classified as a new chemical. New chemical substances submitted by chemical manufacturers or importers as PMNs and which are determined by EPA to meet the PBT criteria described here may be subject to regulatory controls under TSCA section 5(e).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this document. Other types of entities not listed above could also be affected. The four-digit Standard Industrial Classification (SIC) codes or the six-digit North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this document might apply to certain entities. To determine whether you or your business is affected by this document, you should carefully examine the applicability provisions in 40 CFR 720.22. If you have any questions regarding the applicability of this document to a particular entity, consult the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically*. You may obtain copies of this document from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register** - Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/. To access information about the TSCA New Chemicals Program, go directly to the Home Page for the New Chemicals Program, within the Office of Pollution Prevention and Toxics, at http://www.epa.gov/opptintr/newchms/.

2. *In person*. The Agency has established an official record for this document under docket control number OPPTS–53171A. The official record consists of the documents specifically referenced in this document, any public comments received during an applicable comment period, and other information related to this document, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, Rm. NE B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is 202–260–7099.

3. *By phone*. If you need additional information about this document, you may also contact the person identified in the ''FOR FURTHER INFORMATION CONTACT'' section.

II. Background

A. Overview of the PMN Process

Under section 5(a) of TSCA, persons must notify EPA at least 90 days before manufacturing or importing a new chemical substance for non-exempt purposes. A new chemical substance, as defined in section 3(9) of TSCA, is any chemical substance (as defined by section 3(2)) that is not included on the Inventory compiled under section 8(b) of TSCA.

Section 5 of TSCA gives EPA 90 days to review a PMN (also referred to as a ''section 5 notice''). However, the review period can be extended under TSCA section 5(c) for good cause; it may also be suspended voluntarily by the mutual consent of EPA and the PMN submitter. During the review period, EPA may take action under TSCA section 5(e) or (f) to prohibit or limit the production, processing, distribution in commerce, use, and disposal of new chemical substances that raise health or environmental concerns. If EPA has not taken action under TSCA section 5(e) or (f), the PMN submitter may manufacture or import the new chemical substance when the review period expires.

No later than 30 days after the PMN submitter initiates manufacturing or importing, it must provide EPA with a notice of commencement of manufacture or import. Section 8(b) of TSCA provides that, upon receipt of such a notice, EPA must add the substance to the TSCA Inventory. Thereafter, other manufacturers and importers may engage in activities involving the new substance without submitting a PMN, unless the Agency has used its Significant New Use Rule (SNUR) authority under TSCA section 5(a)(2) to designate a use of a chemical substance as a ''significant new use.'' Section 5(a)(1)(B) of TSCA would then require persons to submit a Significant New Use Notice (SNUN) to EPA at least 90 days before they manufacture, import, or process the substance for the use designated as significant. The required SNUN provides EPA with the opportunity to evaluate the intended use, and if necessary, to prohibit or limit that activity before it occurs.

B. History

Since 1979, EPA has reviewed over 30,000 TSCA section 5 submissions for new chemical substances. During the intervening years, EPA has implemented various initiatives which have enabled the Agency to review a greater number of new chemicals more

efficiently. In 1988, for example, EPA's Office of Toxic Substances (now the Office of Pollution Prevention and Toxics) first used its accumulated experience to group chemical substances with similar physicochemical, structural, and toxicological properties into working categories (USEPA, 1988, see Unit VI.8.). These categories, including the subject one for PBT chemical substances, are developed by EPA based on available data and experience reviewing PMNs on similar substances. Such groupings enable both PMN submitters and EPA reviewers to benefit from the accumulated data and decisional precedents and facilitates the assessment of new chemical substances.

PBT chemical substances possess characteristics of persistence (P) in the environment, accumulation in biological organisms (bioaccumulation (B)), and toxicity (T) that make them priority pollutants and potential risks to humans and ecosystems. Prominent examples of PBT chemical substances include the insecticide DDT and polychlorinated biphenyls (PCBs).

Establishment of a PBT category alerts potential PMN submitters to possible assessment or regulatory issues associated with PBT new chemicals review. It also provides a vehicle by which the Agency may gauge the flow of PBT chemical substances through the TSCA New Chemicals Program and measure the results of its risk screening and risk management activities for PBT new chemical substances; as such, it is a major element in the Agency's overall strategy to further reduce risks from PBT pollutants.

As described in the **Federal Register** notice of October 5, 1998 (63 FR 53417), development of the TSCA new PBT chemicals policy has occurred in coordination with U.S. national, U.S./Canada binational, and international efforts to identify and control the environmental release of persistent organic pollutants (POPs). The proposed TSCA PBT category has been provided to the Criteria Expert Group (CEG) established at the first session of the Intergovernmental Negotiating Committee (INC) for an International Legally Binding Instrument for Implementing International Action on Certain Persistent Organic Pollutants, in accordance with the mandate given by the Governing Council of the United Nations Environment Programme (UNEP) in paragraph 9 of its decision 19/13 C (http://irptc.unep.ch/pops/gcpops_e.html). The CEG is an open-ended technical working group with a mandate to present to the INC proposals for science-based criteria and a procedure for identifying additional POPs as candidates for future international action. The CEG is to incorporate criteria pertaining to persistence, bioaccumulation, toxicity and exposure in different global regions and should take into account the potential for regional and global transport, including dispersion mechanisms for the atmosphere and the hydrosphere, migratory species, and the need to reflect possible influences of marine transport and tropical climates. At its first meeting, October 26–30, 1998 in Bangkok, the CEG recommended that the INC consider developing a provision encouraging countries and regions to include in their new chemicals schemes elements relating to development and introduction of new chemical POPs. The U.S. described its proposed TSCA new chemicals program policy for the category of PBT new chemicals, and the full text of the October 5, 1998 **Federal Register** notice was distributed to all delegations as a Conference Room Paper. The CEG's recommendation was accepted at the second meeting of the INC (January 25–29, 1999 in Nairobi) and the INC will consider it further in its deliberations.

This policy statement is important in our new chemical assessment and TSCA regulatory programs, and represents the first formal statement of national policy regarding new chemical ''persistent organic pollutants.'' Under our domestic program, the policy statement provides guidance criteria for persistence, bioaccumulation, and toxicity for new chemicals and advises the industry about our regulatory approach for chemicals meeting the criteria. Internationally, the **Federal Register** notice of October 5, 1998 (63 FR 53417) alerted the parties involved in negotiation of the POPs Convention to the need for inclusion of a new chemicals provision in the Convention. The issuance of the final policy statement will reaffirm US leadership on this issue and serve as a model for other countries in taking steps to discourage the introduction of POPs as new chemicals and pesticides.

III. Discussion of Final Policy Statement and Response to Comments

Today's policy statement adopts the criteria and testing strategy of the **Federal Register** notice of October 5, 1998 (63 FR 53417), with minor revisions. The Agency reviewed and considered all comments received on the October 5, 1998 (63 FR 53417) notice. A complete copy of all comments received is available in the public docket for this document. A discussion of the policy statement, including a summary of significant comments and the Agency's response follows:

A. Pigments

Comment 1-Pigments. Commenters suggested that EPA not identify pigments as bioaccumulators and were concerned that testing could end up being expensive for pigments, which are persistent by design.

Response. EPA assesses PMN chemical substances for PBT attributes on a chemical-by-chemical basis, regardless of whether or not they fall into a chemical use category such as pigments. Not all pigments are the same and a precise definition of the term ''pigment'' is not available. As a result, EPA does not have general ''pigments'' or ''dyes'' assessment categories; there are, however, more specifically described categories of dyes or pigments that have been described by EPA (e.g., acid or amphoteric dyes, dichlorobenzidine-based pigments, and others; see categories document at http://www.epa.gov/opptintr/newchms/chemcat.htm). Moreover, the fact that a substance is ''persistent by design'' by itself is not a sufficient basis for identifying a PBT new chemical substance. Persistence is only one of three criteria used to identify a chemical as PBT. When combined with a potential to bioaccumulate, toxicity concern, and sufficient release to the environment to result in potential risk or significant exposure, pigments may be of concern, whether or not they are persistent by design. If a PMN chemical is persistent by design, and becomes subject to testing requirements by EPA, it would be counterproductive to test initially for persistence, but rather to address the ''B'' and ''T'' criteria instead.

B. Ready Biodegradability Testing

Comment 2-Ready biodegradability testing. Commenters suggested that EPA avoid the use of strict pass/fail criteria for ready biodegradability of poorly water-soluble substances.

Response. Poor water solubility does not necessarily lead to inability to pass a ready biodegradability test, as amply demonstrated by the fact that many fats, oil, petroleum hydrocarbons, etc. easily pass ready biodegradability tests. While strict OECD (Organization for Economic Co-operation and Development) pass/fail criteria are given in the OPPTS Ready Biodegradability test guidelines (see http://www.oecd.org//ehs/test/degrad.htm and Testing Strategy for PBT Chemical Substances, Unit IV.B. of this document), the Agency recognizes the limitations in applying such criteria

rigidly given that many substances of concern as potential PBTs are unlikely to pass ready biodegradability tests. A variety of critical aspects beyond the pass/fail result will be considered when evaluating potential new chemical PBTs or when testing decisions are made about specific PMN substances. These more critical aspects include those related to chemical structure (e.g., degree of branching) and bioavailability (e.g., uptake of a substance by fish or microorganisms), and their influence on both biodegradation and bioaccumulation.

C. Bioconcentration Factor and Kow

Comment 3-Bioconcentration factor. Commenters requested clarification on how bioconcentration factor (BCF) will be estimated using calculations based on octanol-water partition coefficient.

Response. The octanol-water partition coefficient (Kow) is correlated with the potential for a chemical to bioaccumulate in organisms; the BCF can be predicted from log Kow, via computer programs based on structure activity relationship (SAR). The Agency process for predicting bioaccumulation factors (BAFs) and BCFs, along with literature references, is described in some detail in the proposed rule for lowering of reporting thresholds for certain PBT toxic chemicals subject to reporting under section 313 (Toxic Release Inventory, or TRI) of the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 (January 5, 1999 (64 FR 688) (FRL–6032–3), see page 704).

Comment 4-Log Kow and low solubility chemicals. Commenters suggested that the October 5, 1998 (63 FR 53417) **Federal Register** notice identified methods for calculating log Kow that are not appropriate for organic pigments, which are insoluble in octanol. They wanted to know how EPA handles low octanol or water soluble chemicals.

Response. EPA believes that the methods cited in the October 5, 1998 (63 FR 53417) **Federal Register** notice for experimental measurement of the octanol/water partition coefficient (Kow), or SAR to predict Kow, are appropriate, and the results of either can then be used to predict the Fish BCF. Chemicals are unlikely to be accorded special treatment in the new chemicals review process solely because of low solubility in octanol or water alone. The test guidelines (OPPTS 830.7570 or 830.7560) cited in the October 5, 1998 (63 FR 53417) **Federal Register** notice are viewed as the most appropriate for measuring Kow, and alternatively, the shake-flask method (OPPTS 830.7550 test guideline) or the new ''slow-stir'' method currently under development by the OECD, can be used. However, if the chemical manufacturer still views these methods as inappropriate for a given chemical, it would be advisable to proceed to more definitive testing to address bioaccumulation potential (i.e., the Fish BCF study). This approach can be applied to other testing endpoints as well; for example, based on physicochemical properties of a particular PMN chemical substance, a company might forgo a lower tier acute Daphnia toxicity study in favor of the chronic study because it would yield the best information for the screening level risk assessment.

Comment 5-Use of octanol solubility data alone. Commenters wanted to know if octanol or fat solubility data can be used before determining which chemical substances have the potential for bioaccumulation.

Response. By itself, solubility in octanol (as a surrogate for fat) is not a good predictor of potential bioaccumulation in fish. Kow is correlated with the potential for a chemical to bioaccumulate in organisms; the bioconcentration factor (BCF) can be predicted from log Kow, via SAR. Kow is a coefficient which serves as a surrogate for the partitioning of chemicals between water and fat, and cannot be accurately estimated via separate determinations of solubility in pure octanol and water (i.e., by calculating the ratio of the pure-solvent solubilities) (Sijm et al., 1999, see Unit VI.1.). The Agency uses and recommends the use of computer models to predict Kow where there are no measured data.

D. Environmental Half-Life

Comment 6-Calculation of half-life. Commenters wanted to know how half-life is calculated in the review of PBT new chemicals.

Response. Multimedia fate models like the Environmental Quality Criteria (EQC) model (Mackay et al., 1996, see Unit VI.2.) require compartmental half-lives for air, water, soil and sediment, which cannot necessarily be interpreted as half-lives for any specific process such as biodegradation. Data on air half-lives for input to models would be either measured or derived from the Atmospheric Oxidation Program (AOP or AOPWIN) or similar methodology. Studies by Boethling et al. (1995, see Unit VI.3.) and Federle et al. (1997, see Unit VI.4.) suggest that half-lives in bulk soil may be assumed for screening purposes to be about the same as for surface water, and that sediment half-lives may be assumed to be 3–4 times longer. EPA's current suggested approach to finding water half-life is to use the Ultimate Survey Model (USM) in the EPI BIOWIN program (Boethling et al., 1994, see Unit VI.5.). Estimation of bulk compartment half-lives from USM model data requires several assumptions, including that (1) biodegradation is the only significant fate process in water, soil, sediment; (2) water and soil half-lives are the same; and (3) sediment is dominated by anaerobic conditions and therefore sediment half-life is four times longer than water half-life.

E. Computer Models and the Use of Models vs. Actual Data

Comment 7-Use of models vs. actual data. Commenters support the use of the Mackay/EQC model, but stressed the importance of having a process for using actual data in place of the model.

Response. This is a reasonable suggestion. The EQC model is based on the fugacity approach and subsequently applied to numerous environmental processes. It uses an ''evaluative environment'' in which environmental parameters such as bulk compartment dimensions and volumes (e.g., total area, volume of soil and sediment, etc.) are standardized, so that overall persistence for chemicals with different properties and rates of transformation may be compared on an equal basis. In general, measured values of toxicity, chemical properties, compartmental transformation half-lives, etc., provided the data are of acceptable quality, are preferred over those that are predicted or estimated via a model or computer program.

Comment 8-Modeling of air releases. Commenters noted that the October 5, 1998 (63 FR 53417) **Federal Register** notice considered only biodegradation and aqueous hydrolysis and asked about fate of a chemical upon release to air. They suggested that EPA estimate atmospheric oxidation using AOPWIN.

Response. Although the testing strategy for this policy statement focuses on biodegradability, all relevant transport and transformation processes will be considered in evaluating the potential for a PMN substance to behave as a PBT. Transformation processes not mentioned in the **Federal Register** notice but which may be important for specific PMN substances include atmospheric oxidation and photolysis, photolysis in water, and redox transformations (of which there are various types) in water, soil, and sediment. Although EPA believes that for most organic chemicals, biodegradation in water, soil, and sediment will be the most important

transformation process, each suspected PBT chemical substance will be evaluated on its use and disposal patterns.

Clearly the atmosphere is an important environmental medium, and is especially relevant where a substance is emitted directly to the atmosphere or transported there via volatilization or aerosolization. We know by deduction that it is only, or at least chiefly, through the atmosphere that POPs like dioxins and Polychlorinated biphenyls (PCBs) reach remote locations, and it will be an important factor in determining the ultimate fate of many PMN substances as well. It is through multimedia fate models such as EQC that atmospheric fate will be considered in developing an overall prediction of environmental persistence for suspected PBT substances. Where measured data are not available, appropriate estimation methods such as that in the AOPWIN program will be used to generate screening-level estimates of atmospheric half-lives.

F. Use of ''Weight of Evidence'' and Professional Judgment

Comment 9-Laboratory vs. field behavior of chemicals. Commenters indicated that EPA needs to incorporate any differences between lab and field behavior of chemicals into its analysis of new chemical substances, acknowledge the limitations of screening-level biodegradation tests, and acknowledge the value of using professional judgment when interpreting data from extended (> 60 day) degradation studies.

Response. EPA recognizes that laboratory tests at best provide a snapshot of expected environmental behavior, which ideally is studied in the field. But since field testing is nearly always impractical for PMN chemical substances, it is necessary to conduct laboratory tests and to apply scientific judgment in extrapolating from lab to field. EPA similarly acknowledges the limitations of ready biodegradability and other screening tests as indicators of ultimate environmental behavior. Finally, it is well known that even this policy statement's higher tier (Testing Tiers 2 and 3) environmental fate guidelines, despite being designed to provide test conditions closer to those expected in the field, become less reliable when tests are run for longer than the maximum duration specified in the guidelines. EPA will give appropriate weight to these and other complexities in its assessments.

Comment 10-''Check the box'' vs. ''weight of evidence.'' Commenters noted that the TSCA PMN requirements for PBT chemicals look more like ''check-the-box'' than ''weight of evidence'' and wanted to know how EPA will make professional judgment and use SAR and assessment methods to identify PBT new chemicals.

Response. These tools (professional judgment, SAR, computer models, assessment methods, etc.) would be applied to potential PBT chemical substances in the same way they are applied to any other chemical substance in the PMN review process. Using predictive tools (in the absence of test data) and professional judgment, EPA leans towards a ''reasonable worst case'' when there is lack of chemical-specific data. Industry always has the option of assisting and enhancing the Agency's determinations by submitting scientifically valid test data. There are a number of existing documents describing the PMN process and the critical role played by SAR and professional judgment in that process, including the Chemistry Assistance Manual for Premanufacture Notification Submitters (USEPA, 1997, see Unit VI.6.) and parts of the report on the joint U.S./European Union study that evaluated the predictive power of the SAR (USEPA, 1994, see Unit VI.7.). EPA believes that, where no or insufficient actual toxicity data exist upon which to base a decision, toxicity estimates generated by SARs and other predictive techniques may constitute sufficient evidence to be used in human health and environmental hazard and environmental fate assessment as components in certain risk determinations under TSCA (see also the **Federal Register** of December 1, 1993 (58 FR 63507) for a similar statement related to meeting section 313 listing criteria under EPCRA of 1986).

Comment 11-Implement PBT policy within risk assessment framework. Commenters suggested that EPA risk management decisions should not be made solely on hazard information; these PBT criteria should be implemented within a risk assessment framework. They indicated that toxicity has been largely overlooked in the PBT scheme and no criteria have been provided for toxicity. Commenters suggested that EPA needs to take into account P and B and T before requiring further testing or identifying a chemical as a ''true'' PBT, and asked whether persistence and log Kow would be sufficient to determine that a PBT PMN chemical substance may pose a significant risk. Commenters also suggest that EPA should except non-toxic and low exposure/release substances from consideration under this category and were concerned that the current proposed criteria do not consider any health and safety benefits of a PBT chemical substance.

Response. New chemicals identified as potential PBT chemicals are assessed on a case-by-case basis. Section 5(e) of TSCA authorizes EPA to control commercial activities involving a new chemical substance for which available information is insufficient to permit a reasoned evaluation of potential health and environmental effects if EPA determines either (1) that the manufacture (including import), processing, distribution in commerce, use, or disposal of the substance may present an unreasonable risk of injury to health or the environment (''risk-based'' finding), or (2) that the substance is or will be produced in substantial quantities, and such substance either enters or may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance (''exposure-based'' finding). The restrictions under TSCA section 5(e) are imposed pending the development of the test data or other information needed to evaluate the new substance's health or environmental effects. EPA draws on information and data submitted with the PMN form, other information available to the Agency, and modeling (e.g., exposure, release, SAR, etc.).

The Agency will consider P and B and T, individually and together, and exposure in making risk-based judgments. Risk, specific to the PMN substance as well as its risk relative to substitutes currently on the market, is predicted as a function of the potential hazard of the substance and the expected exposure. In other instances, as discussed in the October 5, 1998 (63 FR 53417) **Federal Register** notice, during PMN review EPA may determine that a new substance will be produced in substantial quantities and ''may reasonably be anticipated to enter the environment in substantial quantities or there is or may be significant or substantial human exposure to the substance,'' and that the available information is insufficient to determine the effects of the substance. For such exposure-based determinations on suspected PBT new chemicals, EPA will use a case-by-case approach for making findings by applying considerations beyond P and B (i.e., toxicity or physical/chemical properties), and consider P and B aspects as factors which might argue for regulatory action under TSCA section 5(e) at lower levels of production or exposure/release than are described in the general guidelines for the new chemicals program's

exposure-based policy (USEPA, 1988, USEPA, 1989, see Unit VI.8. and 9.). Overall, companies are not being prevented from developing and using new substances that are judged to be potential PBT chemicals, but EPA may require certain controls (e.g., limiting the release of the PMN chemical to the environment) or testing as a result of its assessments.

In order to be so identified as a PBT new chemical based on a risk-based finding, all three criteria must be satisfied. The Agency has adopted a 1 to 3 rating system for each of P, B, and T. If chemical has a low Kow (i.e., ''B1,'' with BCF estimated as less than 1,000), the B1 rating does not support the new chemical's identification as a potential ''PBT chemical.'' For example, some surfactants could be P3B1T3; they are highly persistent in the environment and chronically toxic to organisms, but with low bioaccumulation potential. However, Agency action may still be taken under TSCA on chemicals not meeting all of the PBT criteria, if they otherwise meet the risk or exposure-based elements of TSCA section 5(e). Similarly, calcium would also not be considered a PBT chemical, as it would be ranked P3B3T1; it is persistent in the environment, it bioaccumulates, but it is not considered toxic. Although the Agency does not promote the environmental discharge of more persistent materials, the environmental ''desirability'' of a given chemical often depends on a balance of various factors, including toxicity and ability of the chemical to bioaccumulate. Like the previous surfactant example, the Agency may nonetheless take action on a P3B3T1 chemical (not calcium per se), most likely under its exposure-based authority.

The toxicity rating for a PBT chemical applies to repeated exposures which result in human or environmental toxicity, including, for example, systemic toxicity, mutagenic damage, reproductive toxicity, or developmental toxicity. An example of this is chronic toxicity towards aquatic organisms of organotins from contaminated marine environments, which ultimately resulted in the regulation of use of tributyl tin in marine anti-fouling paints. Repeated exposures result from a PBT chemical after it has been released into the environment, usually via contaminated water, sediments, or food. The classic PBT problems (i.e., PCBs and Dichloro diphenyl trichloroethane (DDT)) have been associated with food chain contamination.

G. Scientific Justification for PBT Technical Criteria

Comment 12-Support for lower threshold criteria for ''P'' and ''B.'' Commenters believed that there is little precedent, scientific justification, evidence or data to support the lower regulatory threshold of bioaccumulation factor of 1,000 and environmental persistence of 2 months. They suggested that EPA needs a rationale for these criteria beyond ''...are characterized by a tendency to accumulate in organisms.''

Response. There is no ''bright line'' that clearly identifies a bioaccumulation factor of 1,000 or a half-life of 2 months as the best bioaccumulation or persistence criterion from a scientific perspective. However, it is not accurate to state that there is no precedent or basis for using these values. As outlined in EPA's recent proposal to lower the reporting thresholds for PBT chemicals that are subject to reporting under section 313 of EPCRA (64 FR 688; January 5, 1999), similar values have been proposed by several authorities, including the Ontario, Canada Ministry of Environment and Energy (MOEE) for its Candidate Substances List for Bans or Phaseouts (MOEE, 1992, see Unit VI.10.); the Canadian initiative for Accelerated Reduction/Elimination of Toxics (ARET) (ARET, 1995 and ARET, 1994, see Unit VI.11. and 12.); the International Joint Commission (IJC)'s Great Lakes Water Quality Agreement (GLWQA) (IJC, 1993, see Unit VI.13.); and the United Nations Economic Commission for Europe Convention on Long-Range Transboundary Air Pollution (UNECE-LRTAP), which did adopt 2 months as the persistence criterion of record for water (UNECE-LRTAP, 1998, see Unit VI.14.).

In determining the thresholds for this policy statement, EPA concluded that it would be appropriate to reflect the levels of concern that the various PBT chemicals presented, based on the differing degrees to which the chemicals persist and bioaccumulate. The Agency ultimately chose to adopt a two-tier approach, and to establish two separate thresholds to reflect the chemicals' varying potentials to persist and bioaccumulate, as well as to reflect the Agency's belief that the different levels of regulatory action under TSCA are warranted for the two tiers. As discussed in detail in the preamble to the mentioned EPCRA proposed rule, EPA found that generally the criteria selected by various U.S. and international regulatory bodies for either persistence or bioaccumulation clustered around two values. For persistence in water, soil, and sediment, the criteria were grouped around half-lives of 1 to 2 months and 6 months, and for persistence in air, either 2 or 5 days. Bioaccumulation criteria were grouped around BAF/BCF values of 1,000 and 5,000. The preamble to the EPCRA proposed rule states ''Bearing in mind that one of Congress' articulated purposes for EPCRA section 313 was to provide local communities with relevant information on the release and other waste management activities of chemicals in their community that may present a hazard, EPA determined that the criteria that were most consistent with these purposes were, for persistence, half-lives of 2 months for water, sediment, and soil, and 2 days in air, and for bioaccumulation, bioaccumulation/bioconcentration factor values of 1,000 or greater'' (64 FR 692; January 5, 1999). EPA is making a similar determination for the PBT new chemicals policy under TSCA. The PMN process is one of EPA's cornerstone Pollution Prevention programs and plays a critical gatekeeper role in making sure that all new chemical substances do not present unreasonable risks when they are commercialized. Given this, and the uncertainty which often accompanies Agency review of a PMN chemical substance due to lack of data, the TSCA new chemicals program is and must be conservative by nature, which suggests that a half-life shorter than 6 months and a BCF criterion lower than 5,000—values that were selected solely or primarily to isolate substances already widely acknowledged to be POPs are appropriate for regulatory scrutiny of new chemicals under TSCA. Note that the CEG, at the October 26–30, 1998 Bangkok meeting described in Unit II.B. of this document, developed indicative numerical values as bracketed criteria text which included persistence of 2 vs. 6 months in water and log Kow of 4 vs. 5 (equivalent to a BCF of approximately 1,000 vs. 5,000, respectively).

A series of PMNs submitted to EPA in 1990 (Zeeman et al., 1999, see Unit VI.15.) illustrates (1) why EPA believes that the persistence criterion for bioaccumulating substances in soil, water, or sediment should be set substantially lower than 6 months; and (2) that concern for potential exposures to persistent and bioaccumulative toxics must extend beyond the UNEP's 12 widely acknowledged POPs. The substances in question were alkylated diphenyls, for which EPA expected discharge to receiving streams and rivers. The submitter supplied data on use and disposal, aquatic toxicity, and

biodegradability. The submitted environmental fate data and EPA estimates of biodegradability based on structural analogs suggested that half-lives in water would be well below 6 months, but not necessarily lower than 2 months. As a result of concerns expressed by EPA, use was limited to sites where resulting water concentrations could be limited to 1 microgram per liter or less; concomitantly, the submitter was also informed of EPA's belief that a potential for long-term risk existed, but that EPA could not quantify this risk since assessments typically evaluated releases over a period of only 1 year. In 1998, results of monitoring revealed that the PMN substances had been found in fish fillets and sediment samples from the receiving stream. If, for these 1990 PMNs, EPA were to have had in place the 2 month persistence criterion described in today's policy statement, further scrutiny under the new chemicals program would have been warranted, and beyond simply informing the PMN submitter of the potential for long-term risk, the Agency would likely have required further testing to obtain an experimental value for environmental persistence of the chemicals. This in turn would have given the Agency a better picture of the behavior of the chemicals in the environment and the environmental half-life relative to the 2 month value.

Comment 13-Deny commercialization to lower threshold PBT chemicals. Some commenters supported exercising the ''Precautionary Principle'' by not allowing commercialization under a TSCA 5(e) consent order or SNUR pending testing of the PMN chemicals which meet the P=2 month and BCF=1,000 criteria. They suggested that these chemicals should be banned instead, pending the necessary testing.

Response. Whereas a half-life of 2 months and BCF of 1,000 can be justified as lower-tier cutoffs in a deliberately conservative TSCA new chemicals program that is designed to prevent commercialization of potentially risky substances, it would not be appropriate to automatically trigger a ''ban pending testing'' at these cutoffs given the uncertainties about substance properties, release, and environmental behavior that normally characterize PMN review. The Agency believes that the available predictive tools and current knowledge of POPs lend support for this two-phased approach to screening of PBT chemicals and collection of information ''sufficient to permit a reasoned evaluation of potential health and environmental effects'' if EPA makes the requisite risk- or exposure-based findings under TSCA section 5(e).

Comment 14-Relationship of P, B, and T criteria. Commenters suggested that the October 5, 1998 (63 FR 53417) notice is inaccurate when it states that 2 months is adequate for detecting many long-term toxic effects as well as any tendency for a substance to bioaccumulate in aquatic organisms. Commenters pointed out that the persistence criterion is not related to detection of long-term toxicity.

Response. The statement in question was intended simply to note that the 2 months half-life in water persistence criterion closely tracks the duration of long-term environmental toxicity or bioaccumulation tests. If a new chemical substance is predicted to or measurably demonstrates chronic toxicity, potential to bioaccumulate, and environmental persistence over that same time period (2 months), it would meet the minimum TSCA PBT criteria. It is true that, in general, half-life cutoffs for identifying POPs warranting international action (e.g., in programs like UNECE-LRTAP and UNEP Global Negotiations on POPs) have not been selected based on the duration of toxicity or bioaccumulation tests. There are no cutoffs or ''fence lines'' for environmental persistence criteria that emerge as immutable quantities solely from scientific analysis; the choice of screening criteria is a policy decision guided by the anticipated scope of a negotiation or regulatory activity. In the case of the PMN program, 2 months represents a reasonable screening level value for ''persistence'' which is more than the 1-month period in a ready biodegradation study and less than the 6 month value widely agreed to internationally (U.S.-Canada binational agreement to control the discharge or release of POPs in the Great Lakes Basin, UNECE-LRTAP, North American Free Trade Agreement Commission for Environmental Cooperation (NAFTA-CEC), etc.) as reflecting the persistence of known POPs chemicals (e.g., DDT, hexachlorobenzene). As mentioned in the previous response, there is international support, through the CEG, for persistence values of 2 or 6 months in water.

Comment 15-Relationship of P and B. Commenters suggested that the October 5, 1998 (63 FR 53417) notice's statement, ''Generally, persistent bioaccumulators are chemical substances that partition to water, sediment or soil and are not removed at rates adequate to prevent their bioaccumulation in aquatic or terrestrial species,'' should be revised to reflect that persistence alone is not sufficient to cause a substance to bioaccumulate.

Response. EPA did not intend that the sentence be read to mean that persistence alone is sufficient to result in bioaccumulation. The point that was intended to be conveyed was that a certain level of persistence is a necessary condition for bioaccumulation to occur. There are other conditions that affect bioaccumulation, such as bioavailability and the metabolic transformation rate in the target species. These and other factors will be evaluated by EPA in the determination of the PBT concern level for PMN chemical substances.

H. Relationship of TSCA PBT Policy to Other Agency and International PBT Initiatives

Comment 16-Finalize overall Agency multimedia strategy first. Commenters suggested that the PBT classification criteria being proposed for TSCA section 5(e) may have broader application, e.g., international or other Agency PBT initiatives, and may be used to establish precedent in other programs. In addition to the TSCA October 5, 1998 (63 FR 53417) **Federal Register** notice, there have been three other notices published in **Federal Register** dealing with (1) the promotion of voluntary waste minimization efforts to reduce the generation of those PBT chemicals which are found in hazardous waste regulated under the Resource Conservation and Recovery Act (RCRA) (63 FR 60332; November 9, 1998 (FRL–6186–7)), (2) the Agency draft Multimedia PBT Strategy (63 FR 63926; November 17, 1998 (FRL–6045–2)), and (3) the lowering of reporting thresholds for certain PBT toxic chemicals subject to reporting under section 313 (Toxic Release Inventory, or TRI) of EPCRA of 1986 (64 FR 688; January 5, 1999). These commenters stated that the TSCA notice is premature, occurring before adoption of the overall Agency strategy, and is inconsistent with other initiatives, domestic and international, which have lists of chemicals and more selective criteria (i.e., specific to environmental media, fate and transformation processes). Commenters recommended that EPA finalize the Agency strategy first, before proceeding with the TSCA, RCRA, and TRI actions, and that there should be coordination among them all with uniform PBT criteria as part of the Agency strategy.

Response. The PBT Multimedia Strategy formalizes an Agency process for integration of program activities involving these types of substances. While the strategy intends to coordinate Agency PBT-related activities under its

framework, the strategy does not establish rigid criteria with respect to PBTs. Program offices must operate within the parameters of their legislative mandates and established regulatory and policy frameworks. For some programs such as the Toxics Release Inventory, the TSCA New Chemicals Program and the RCRA National Waste Minimization Plan, actions involving PBTs are a historical reality and their experience has, in fact, largely shaped the strategy. Therefore, EPA does not intend to halt all ongoing work involving PBTs until the strategy is ''finalized.'' With respect to the PMN process, it is important to understand and acknowledge its fundamental purpose, which is to allow EPA to evaluate the hazards, exposures, and risks of new chemicals, and the opportunity to protect against unreasonable risks, if any. The structure of that process and the tools used to implement it flow logically from its statutory purpose and suggest that the category approach outlined in this policy statement is the most appropriate means of addressing potential concerns for substances possessing PBT characteristics. It is EPA's intention that the strategy be a living document. Therefore, the strategy will be updated based upon public comment; it will not be ''finalized'' in the more traditional sense of a rulemaking. EPA does agree that consistency is a laudable goal where the criteria are meant to be used for similar purposes and is seriously considering comments within the context of the strategy regarding establishment of consistent criteria for priority PBTs.

Comment 17-Carefully communicate lower thresholds. Commenters suggested that EPA should use only the environmental persistence of 6 months/BCF of 5,000 screening levels for consistency among EPA and U.S./international programs and should carefully communicate proposed lower criteria internationally.

Response. As discussed in the response to Comment 12, EPA believes that a lower tier of 2 month/BCF of 1,000 is appropriate for risk screening activities under TSCA. Communication is occurring in the international forum. Unit II.B. of this document discusses the CEG for POPs, established under UNEP mandate. At its first meeting, on October 30, 1998 in Bangkok, the CEG recommended that the INC consider developing a provision encouraging countries and regions to include in their new chemicals schemes elements relating to development and introduction of new chemical POPs. The U.S. described its proposed TSCA new chemicals program policy for the category of PBT new chemicals, and the full text of the October 5, 1998 (63 FR 53417) **Federal Register** notice was distributed to all delegations as a Conference Room Paper. The CEG's recommendation was accepted at the second meeting of the INC (January 25–29, 1999 in Nairobi) and the INC will consider it further in its deliberations.

I. Testing Strategy

Comment 18-Toxicity testing. Commenters asked whether toxicity was considered at each testing tier or only in tier 3. It was not clear to them when toxicity testing would be requested, nor what results will be considered acceptable by the Agency.

Response. Each of P and B and T are weighed in the Agency's assessment. The testing strategy outlined in this policy statement is intended to build the case, starting with testing to establish persistence and bioaccumulation, and then determining toxicity and confirming a chemical's status as a PBT chemical in tier 3. Once a chemical becomes distributed in the environment at low concentrations, the combination of persistence and bioconcentration in organisms can result in residues high enough to approach a toxic dose. The first two tiers focus on P and B because of the critical role these aspects play in PBT determinations and because of their relatively lower cost to determine P and B. Thus, chronic toxicity testing, which is expected to be the most expensive testing, is reserved until tier 3 where it serves to establish PBT status. Although the early tier P and B testing may either obviate the need for toxicity testing or result in more directed and cost-effective toxicity testing, the need for toxicity testing is considered in each testing tier and will be obtained in lower tiers where needed on a case-specific basis. As with all new chemicals reviewed by the Agency under TSCA, the potential toxicity of the chemical is determined from test data, if any, or by analogy to structurally similar chemicals. If a company knows or suspects prior to testing that their chemical is likely to be persistent and bioaccumulative, consideration should be given to conducting chronic toxicity testing in the first tier. For any suspected PBT chemicals for which a risk finding has not been made, but which meet production, release, and exposure thresholds under the Agency's exposure-based policy (USEPA, 1988, USEPA, 1989, see Unit VI.8. and 9.), the standard screening level battery of testing (or an appropriate subset thereof) currently utilized for exposure-based cases in the new chemicals program could be required in addition to PBT testing.

Comment 19-Equivalent tests. Commenters suggested that all tests referenced in the testing strategy should also state ''or an equivalent test.''

Response. EPA realizes that often there are a number of different but acceptable means to providing testing information. However, EPA's acceptance of a guideline not specified in this policy statement and/or use of data generated under such guidelines depends on multiple factors including the specifics of the test substance, purpose of the testing, familiarity with specific procedures and equipment, validation of the method, etc. Typical TSCA 5(e) consent orders require that testing performed pursuant to the order must be conducted according to TSCA Good Laboratory Practice Standards at 40 CFR part 792 and using methodologies generally accepted at the time the study is initiated. Before starting to conduct any such study, the PMN submitter must obtain approval of test protocols from EPA by submitting written protocols. Published test guidelines specified in the Test Strategy section (see Unit IV. B. of this document) provide general guidance for development of test protocols, but are not themselves acceptable protocols.

J. Applicability of PBT Criteria to Metals

Comment 20-PBT criteria are not appropriate for metals. Commenters suggested that the application of Persistence and Bioaccumulation criteria appropriate for organic chemicals does not make sense for metals and metal compounds. They also suggested that EPA needs criteria to identify potential problems generated by organometals.

Response. The approach and the criteria are sufficiently flexible to apply to organic chemicals, inorganic metals and organometallics. It is important to distinguish between criteria for identifying potential PBTs, on the one hand, and on the other: (1) the means of generating information on the P, B, and T endpoints for comparison to the criteria, and (2) the applicability of existing test guidelines for generating such information experimentally.

EPA understands that metals are intrinsically not degradable in the sense of ultimate degradation of organics (although they may undergo biologically as well as chemically induced changes in, e.g., oxidation state), and therefore are persistent by definition, but nevertheless may not be bioaccumulative. It is widely accepted that elemental metals are persistent by definition, since they may take different

forms that can be interconverted, but the elemental metal itself cannot be destroyed. All elemental metals therefore meet the 6 month half-life criterion. Given this, it is not correct that EPA's proposed persistence criteria cannot be applied to metals. It may be more accurate to state that the persistence criteria are not themselves very helpful in screening or assessing metals and metal compounds with respect to the potential for risk, whether from direct exposure or through bioaccumulation. Relative to applicability of test guidelines, the same level of judgment will be brought to bear such that, for example, EPA would not require ready biodegradability testing for a metal or metal salt. (EPA may, however, request such testing for organometallics, which, depending on chemical structure, could still show significant degradation in such tests.)

EPA understands that bioavailability is important in determining the potential for risk, and notes that the same generalization applies to any substance whether metallic or not. Metals and organometallic compounds are no different from other organic chemicals with respect to the applicability of the proposed criteria for identifying persistent, bioaccumulative, and toxic substances, except that Kow determination may not be relevant for metals (although the fish BCF study is relevant). Similarly, it is not necessary to develop different criteria or assessment strategies for pigments (see first comments/responses in this policy statement) or any other specific classes of organics. What is necessary is to consider what is known about the behavior of substances like metals during the TSCA PMN review process, both in the assessment of whether a given chemical substance meets the established criteria and in subsequent testing decisions. For any untested PMN chemical substance, if there are no close analogs with data and no clear evidence that available estimation methods are unreliable for this or closely related substances, then the estimation methods can be assumed to apply and the resulting data compared to PBT criteria. Put another way, a metal or organometallic (or, similarly, a pigment) that is judged sufficiently persistent and meets the criteria for bioaccumulation potential and toxicity is of concern for ''PBTness'' regardless of theoretical arguments or generalizations.

The key is how persistence and bioaccumulation potential are determined in the PMN process, and by implication, how bioavailability is determined. This policy statement leaves unspecified how EPA intends to do this, but the Agency will consider all available and relevant data, and will use its professional judgment in considering issues like bioavailability of metals. Using lead as an example, many processes commonly observed in the environment can result in the presence of bioavailable (ionic) lead where it can be bioaccumulated by organisms. These processes may occur in soil and aquatic environments with low pH and low levels of organic matter. Under these conditions, the solubility of lead is enhanced and, in the absence of sorbing surfaces and colloids, lead ion can remain in solution for a sufficient period to be taken up by biota. Lead sorption to soil organic matter has been shown to be pH dependent. Decreasing pH can lead to increasing concentrations of lead in soil and water. Microbial transformations in soil, water, and sediment are also important in determining the overall fate of metals and metal compounds, and therefore the potential for formation of bioavailable forms. Metals are generally taken into cells by nutrient metal transport systems, and these are not sufficiently specific to completely exclude nonessential metals, some of which may be toxic and/or bioaccumulative. In this situation, nutrient metals can be displaced from their binding sites by undesirable, toxic metals, which then gain access to the cell interior with concomitant exclusion of the essential metal (Stumm and Morgan, 1996 see Unit VI.16.). Toxic metal ions are then free to react with critical enzymes or otherwise disrupt cellular functions if they reach certain levels. EPA concludes that under many environmental conditions, metals and metal compounds may be available to express toxicity and to bioaccumulate, and that these effects are not necessarily limited to metals that are not essential nutrients. It is appropriate, therefore, to be concerned about the potential for risk from these effects. It is the policy of the TSCA New Chemicals Program that if the metal in a metal compound cannot become available as a result of biotic or abiotic processes then the metal will not be available to express its toxicity, and by extension, to bioaccumulate. If the intact metal compound is not toxic and the metal is not available from the metal compound, then such a chemical would not be a strong candidate for regulation under TSCA section 5(e).

IV. Final TSCA New Chemicals Program Policy for PBT Chemical Substances

A. Evaluation Criteria and Process for New PBT Chemical Substances

EPA is adopting the following specific identification criteria and associated process for use in evaluating new chemical substances.

NEW CHEMICALS PROGRAM PBT CATEGORY CRITERIA AND PROCESS

	TSCA Section 5(e) Action	
	5(e) Order Pending Testing/Significant New Use Rule (SNUR)[1]	5(e) Ban Pending Testing[2]
Persistence (transformation half-life).	> 2 months	> 6 months
Bioaccumulation (Fish BCF or BAF)[3].	≥ 1,000	≥ 5,000
Toxicity	Develop toxicity data where necessary[4].	Develop toxicity data where necessary[4]

[1]Exposure/release controls included in order; testing required.

[2]Deny commercialization; testing results may justify removing chemical from ''high risk concern''.

[3]Chemicals must also meet criteria for MW (< 1000) and cross-sectional diameter (< 20A , or < 20×10^{-8} cm).

[4]Based upon various factors, including concerns for persistence, bioaccumulation, other physical/chemical factors, and toxicity based on existing data.

Chemical substances suspected as persistent bioaccumulators under the criteria listed in the table in Unit IV.A. of this document may need to undergo testing on ''P'' and ''B'' endpoints which, if confirmed, would be followed by appropriate toxicity testing to identify ''PBT chemical substances.'' Control action under TSCA section 5(e) may be needed in varying degrees, based upon the level of risk concern. Agency control actions taken under TSCA section 5(e) for chemical substances meeting these criteria would be based upon the level of certainty for the PBT properties of a PMN substance (e.g., measured vs. estimated values), the magnitude of Agency concerns, and conditions of expected use and release of the chemical. For example, new chemical substances meeting the PBT criteria listed under ''5(e) Order Pending Testing/Significant New Use Rule (SNUR)'' could be addressed via a negotiated consent agreement under

which necessary testing is ''triggered'' by specific production limits. While the PMN submitter would be allowed to commercialize the substance, certain controls could be stipulated, including annual TRI-type reporting on environmental releases of the PMN substance and specific limits on exposures, releases, or uses. The ''ban pending testing'' criteria are equivalent to those that have been used internationally to identify POPs. For the chemical substances meeting these criteria, the concern level is higher and the Agency would look carefully at any and all environmental releases. Because of the increased concern, more stringent control action would be a likely outcome, up to a ban on commercial production until data are submitted which allow the Agency to determine that the level of risk can be appropriately addressed by less restrictive measures. The control actions described in the table in Unit IV.A. of this document represent just one body of possible decisions and should not be considered as exclusive of other risk management options.

B. Testing Strategy for PBT Chemical Substances

Where EPA is unable to adequately determine the potential for bioaccumulation, persistence in the environment, and toxicity which may result from exposure of humans and environmental organisms to a possible PBT chemical substance, the Agency may conclude, pursuant to sections 5(e)(1)(A)(i) and 5(e)(1)(A)(ii)(I) and (II) of TSCA, that the information available to the Agency is insufficient to permit a reasoned evaluation of the human health and environmental effects of that PMN substance, that the manufacturing, processing, distribution in commerce, use, or disposal of the substance may present an unreasonable risk of injury to human health or the environment, and/or that the PMN substance will be produced in substantial quantities and that there may be significant or substantial human exposure to the substance or the PMN substance may reasonably be anticipated to enter the environment in substantial quantities. Accordingly, the Agency may find it appropriate to prohibit or otherwise limit the manufacture, import, processing, distribution in commerce, use, or disposal of the PMN substance in the United States pending the development of information necessary for a reasoned evaluation of these effects. The following testing strategy describes test data which EPA believes are needed to evaluate the persistence, bioaccumulation, and toxicity of a PBT chemical substance for which EPA has made the above described risk and/or exposure-based findings under section 5(e)(1)(A)(i) and (ii) of TSCA. The tests are tiered; depending upon the circumstances, such as magnitude of environmental releases, results of testing, or SAR, testing could begin above Tier 1 or additional, higher levels of testing may be required. As discussed in the response to Comment 19 in Unit III.I. of this document, testing must be conducted according to TSCA Good Laboratory Practice Standards at 40 CFR part 792 and using methodologies generally accepted at the time the study is initiated. Before starting to conduct any such study under the terms of a Consent Order under TSCA section 5(e), the PMN submitter must obtain approval of test protocols from EPA by submitting written protocols. Published test guidelines specified in Unit IV.B. of this document provide general guidance for development of test protocols, but are not themselves acceptable protocols.

Tier 1. If, based upon available test data, SAR, and professional judgment, the Agency identifies a new chemical substance as a possible PBT chemical substance, Log Kow should be determined experimentally, using either the liquid chromatography (OPPTS 830.7570 test guideline) or generator column (OPPTS 830.7560 test guideline) method. Hydrolysis in water (OPPTS 835.2110 test guideline) should be determined if, based upon SAR, susceptibility to hydrolysis is suspected. Ready biodegradability should be determined according to either one of the following test guidelines:

1. Ready biodegradability (OPPTS 835.3110 test guideline) 6 methods (choose one): DOC Die-Away, CO_2 Evolution, Modified MITI (I), Closed Bottle, Modified OECD Screening, Manometric Respirometry.

2. Sealed-vessel CO_2 production test (OPPTS 835.3120 test guideline).

If the measured log Kow is < 4.2 (equivalent to an estimated BCF of 1,000) or if the test chemical passes (pass criteria are described in the test guidelines) the ready biodegradability test (i.e., not persistent in the environment), no further PBT-related testing is required. If the measured log Kow is greater than or equal to 4.2, and the chemical does not pass the ready biodegradability test, no further testing will normally be deemed necessary in tier 1; the Agency would likely require tier 2 testing. If hydrolysis testing is conducted and results in a half-life of < 60 days, further testing may not be needed, but the need for testing must be determined after consideration of factors specific to the case, such as physical/chemical properties, persistence and bioaccumulative qualities of hydrolysis products, and the nature of the expected releases.

Tier 2. Biodegradability should be determined according to the Shake-flask die-away test (OPPTS 835.3170 test guideline). This test is based on the principle of aerobic incubation of the test chemical in natural water with and without suspended sediment, requires a chemical-specific analytical method, and allows for the development of a first-order rate constant and half-life. It provides information on persistence that is relevant to the natural environment and is intermediate in cost between ready biodegradability tests (tier 1) and sediment/water microcosm biodegradation test (tier 3).

Bioaccumulation potential should be determined by experimental measurement of the bioconcentration factor (BCF), using the Fish bioconcentration test (OPPTS 850.1730 test guideline (public draft)). Measured BCF should be based on 100 percent active ingredient and measured concentration(s).

If the measured biodegradation half-life is > 60 days and measured BCF is > 1,000, tier 3 testing will normally be required. If only one condition is met, releases and exposure are further considered to determine if additional testing is required.

Tier 3. Toxicity/advanced environmental fate testing. Human health hazards should be determined in the combined repeated dose oral toxicity with the reproductive/developmental toxicity screening test (OECD No. 422 test guideline) in rats. Other health testing will be considered where appropriate.

Environmental fate testing should be conducted according to the Sediment/water microcosm biodegradation test (OPPTS 835.3180 test guideline). The principle of this method is the determination of the test chemical's fate, including transport and transformation, in core chambers containing intact benthic sediment and overlying site water. The method permits more accurate and reliable extrapolation to natural aquatic environments than is possible with lower tier test methods.

Chronic toxicity to fish (rainbow trout) and daphnids should be determined according to 40 CFR 797.1600 (same as OPPTS test guideline 850.1400 (public draft)) and 40 CFR 797.1330 (same as OPPTS test guideline 850.1300 (public draft)), respectively. Additional testing to evaluate other biota (e.g., avian, sediment dwelling organisms) or other effects (e.g.,

endocrine disrupting potential) will be considered where appropriate.

V. Intended Legal Affect of this Policy Statement

The policy discussed in this document provides general guidance on the Agency's use of a category grouping for PBT new chemical substances to facilitate the PMN assessment process for PMN submitters and EPA reviewers. EPA uses groupings of new chemical substances with similar structural and toxicological properties to allow PMN submitters and EPA reviewers to benefit from accumulated data and decisional precedents, as well as streamlined procedural requirements related to the review of and follow-up for new chemical substances.

As guidance, the policy presented in this document is not binding on either EPA or any outside parties, and this document is not intended, nor can it be relied upon, to create any rights enforceable by any party in litigation with the United States. Although this guidance provides a starting point for assessing PBT new chemical substances, EPA will depart from its policy where the facts or circumstances warrant. In such cases, EPA will explain why a different course was taken. Similarly, outside parties remain free to assert that this policy is not appropriate for a specific PMN or that the circumstances surrounding a specific PMN demonstrate that this policy should not be applied. Although the Agency has provided an opportunity for public comment on the guidance provided in this policy statement and is likely to request additional feedback if changes are necessary at some point in the future, the Agency may revise, clarify, or update the text of this guidance without public notice.

VI. References

The OPPTS harmonized test guidelines referenced in this document are available on EPA's World Wide Web site (http://www.epa.gov/OPPTS_Harmonized/).

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3. Boethling RS, PH Howard, JA Beauman and ME Larosche. 1995. Factors for intermedia extrapolation in biodegradability assessment. *Chemosphere* 30: 741–752.

4. Federle TW, SD Gasior and BA Nuck. 1997. Extrapolating mineralization rates from the ready CO2 screening test to activated sludge, river water, and soil. *Environ. Toxicol. Chem*. 16: 127–134.

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6. USEPA. March, 1997. Chemistry Assistance Manual for Premanufacture Notification Submitters. EPA 744–R–97–003. Also available as Premanufacture Notification: Chemistry Assistance for Submitters, by Steven C. DeVito and Carol A. Farris (ISBN: 0–471–19151–5) through the publisher, John Wiley and Sons, at 1–800–225–5945 or the TSCA Hot Line, at 202–554–1404.

7. USEPA. March, 1994. U.S. EPA/EC Joint Project on the Evaluation of (Quantitative) Structure Activity Relationships. EPA 743–R–94–001.

8. USEPA. 1988. Letter from Charles L. Elkins to Geraldine V. Cox (Chemical Manufacturers Association). Office of Toxic Substances, USEPA (September 22, 1988).

9. USEPA. 1989. Letter from Charles L. Elkins to Geraldine V. Cox (Chemical Manufacturers Association). Office of Toxic Substances, USEPA (August 31, 1989).

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11. Accelerated Reduction/Elimination of Toxics (ARET) Secretariat. 1995. Environment leaders 1. Voluntary commitments to action on toxics through ARET. March 95.

12. Accelerated Reduction/Elimination of Toxics (ARET) Secretariat. 1994. The ARET substance selection process and guidelines. January 94.

13. International Joint Commission (IJC). 1993. A strategy for the virtual elimination of persistent toxic substances. Vol. 1, report of the Virtual Elimination Task Force to the IJC. Windsor, Ontario, Canada, 72 pp.

14. United Nations Economic Commission for Europe, Convention on Long-Range Transboundary Air Pollution (UNECE-LRTAP). 1998. Draft composite negotiating text for a protocol on persistent organic pollutants. UNECE, EB.AIR/1998/2, 31 March 1998.

15. Zeeman, M., D Rodier, and JV Nabholz. 1999. Chapter 2. Ecological Risks of a New Industrial Chemical. Under TSCA. In Ecological Risk Assessment in the Federal Government (Executive Office of the President, National Science and Technology Council, Committee on Environment and Natural Resources, Ed.). CENR/5–99/001, May, 1999, pp 2–1 to 2–30.

16. Stumm, W. and JJ Morgan. 1996. *Aquatic Chemistry*, 3rd ed. New York: Wiley.

List of Subjects

Environmental protection, Chemical substances, Hazardous substances, Reporting and recordkeeping requirements.

Dated: October 22, 1999.

Susan H. Wayland,

Deputy Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–28888 Filed 11–3–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6469–6]

Notice of Proposed Assessment of Clean Water Act Class II Administrative Penalty and Opportunity To Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is providing notice of a proposed administrative penalty for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed penalty.

EPA is authorized under section 311(b)(6) of the Clean Water Act, 33 U.S.C. 1321(b)(6), to assess a civil penalty after providing the person subject to the penalty notice of the proposed penalty and the opportunity for a hearing, and after providing interested persons public notice of the proposed penalty and a reasonable opportunity to comment on its issuance. Under section 311(b)(6), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility in violation of the regulations issued under section 311(j) of the Clean Water Act, 33 U.S.C. 1321(j), (''Oil Pollution Prevention Regulations''—40 CFR part 112) may be assessed a civil penalty of up to $137,500 by EPA in a ''Class II'' administrative penalty proceeding. Class II proceedings under section 311(b)(6) of the Clean Water Act are

conducted in accordance with the ''Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits at 40 CFR part 22 (''part 22'').''

Pursuant to section 311(b)(6)(C) of the Clean Water Act, 33 U.S.C. 1321(b)(6)(C), EPA is providing notice of the following proposed Class II penalty proceeding initiated by the Superfund Division, U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105:

In the Matter of Paramount Petroleum Corporation, Inc. and Eott Energy Operating Limited Partnership, Docket No. OPA–09–99-0002, filed September 30, 1999; proposed penalty $137,500; for violations of the Oil Pollution Prevention Regulations (40 CFR part 112) at the asphalt storage, processing and distribution facility located in Flagstaff, AZ.

The procedures by which the public may submit written comments on a proposed Class II penalty order or participate in a Class II penalty proceeding are set forth in part 22. The deadline for submitting public comment on a proposed Class II order is thirty days after issuance of public notice.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of part 22, review the Complaint or other documents filed by the parties in this proceeding, comment upon the proposed penalty assessment, or participate in any hearing that may be held, should contact the Danielle Carr, Regional Hearing Clerk (RC–1), U.S. EPA, Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 744–1391. Documents filed as part of the public record in this proceeding are available for inspection during business hours at the office of the Regional Hearing Clerk.

In order to provide opportunity for public comment, EPA will not take final action in this proceeding prior to thirty days after issuance of this document.

Dated: September 22, 1999.

Michael Feeley,

Acting Director, Superfund Division, Region IX.

[FR Doc. 99–28886 Filed 11–3–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

October 27, 1999.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before December 6, 1999. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 1–C804, 445 12th Street, SW, Washington, DC 20554 or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0627.

Title: Application for AM Broadcast Station License.

Form No.: FCC Form 302–AM.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions.

Number of Respondents: 380.

Estimated Time Per Response: 92–512 hours per respondent.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 2,800 hours.

Total Annual Cost: $10,070,000.

Needs and Uses: On October 22, 1998, the Commission adopted a Report and Order in MM Docket Nos. 98–43 and 94–149. Among other things, this Report and Order substantially revised the FCC Form 302–AM to facilitate electronic filing by replacing narrative exhibits with the use of certifications and an engineering technical box. The Commission also removed and narrowed overly burdensome questions. The FCC Form 302–AM will be supplemented with detailed instruction to explain processing standards and rule interpretations to help ensure that applicants certify accurately. These changes will reduce applicant filing burdens in the preparation and submission of exhibits in support of applications. In addition, these changes will streamline the Commission's processing of FCC 302–AM applications. The Commission has also adopted a formal program of pre-and post-application grant random audits to preserve the integrity of our streamlined application process.

The data will be used by FCC staff to confirm that the station has been built to the terms specified in the outstanding construction permit, and to update FCC station files. Data is then extracted from the FCC 302–AM for inclusion in the subsequent license to operate the station.

OMB Control No.: 3060–0506.

Title: Application for FM Broadcast Station License.

Form No.: FCC Form 302–FM.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions.

Number of Respondents: 925.

Estimated Time Per Response: 4–0 hours per respondent.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 1,840 hours.

Total Annual Cost: $665,500.

Needs and Uses: On October 22, 1998, the Commission adopted a Report and Order in MM Docket Nos. 98–43 and 94–149. Among other things, this Report and Order substantially revised the FCC Form 302–FM to facilitate electronic filing by replacing narrative exhibits with the use of certifications and an engineering technical box. The Commission also removed and narrowed overly burdensome questions. The FCC Form 302–FM will be

supplemented with detailed instruction to explain processing standards and rule interpretations to help ensure that applicants certify accurately. These changes will reduce applicant filing burdens in the preparation and submission of exhibits in support of applications. In addition, these changes will streamline the Commission's processing of FCC 302–FM applications. These Commission has also adopted a formal program of pre-and post-application grant random audits to preserve the integrity of our streamlined application process.

The data will be used by FCC staff to confirm that the station has been built to the terms specified in the outstanding construction permit, and to update FCC station files. Data is then extracted from the FCC 302–FM for inclusion in the subsequent license to operate the station. Applications using the new one-step process will be reviewed to ensure that he minor changes made by the station will not have any significant impact on other stations and the public.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–28795 Filed 11–3–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:30 p.m. on Monday, November 8, 1999, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' meetings.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors.

Memorandum and resolution re: Uniform Retail Credit Classification and Account Management Policy.

Memorandum and resolution re: Final Rescission of 12 CFR Part 343—Insured State Nonmember Banks Which Are Municipal Securities Dealers.

Memorandum and resolution re: Technical Amendments to FDIC's Regulations Relating to Rules of Practice and Procedure and Deposit Insurance Coverage, 12 CFR Parts 308 and 330.

Memorandum re: Final Publication of Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness.

Discussion Agenda:

Memorandum re: BIF Assessment Rates for the First Semiannual Assessment Period of 2000.

Memorandum re: SAIF Assessment Rates for the First Semiannual Assessment Period of 2000.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW, Washington, DC.

The FDIC will provide attendees with auxiliary aids (*e.g.*, sign language interpretation) required for this meeting. Those attendees needing such assistance should call (202) 416–2449 (Voice); (202) 416–2004 (TTY), to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–6757.

Dated: November 1, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–28983 Filed 11–1–99; 5:06 pm]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE & TIME: Tuesday, November 9, 1999, 10 a.m.

PLACE: 999 E Street, NW, Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C.437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Wednesday, November 10, 1999, 10 a.m.

PLACE: 999 E Street, NW, Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinion 1999–24: Election Zone LLC (''EZone'') by Ryan E. Arney, President and CEO.

Advisory Opinion 1999–29: Bill Bradley for President, Inc. by counsel. Robert F. Bauer.

Status of Y2K Compliance.

Status of PricewaterhouseCoopers (PwC) Recommendations.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Acting Secretary of the Commission.

[FR Doc. 99–28985 Filed 11–2–99; 11:19 am]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 29, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer)

230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Fentura Bancorp, Inc., Fenton, Michigan; to acquire 100 percent of the voting shares of Davison State Bank (in organization), Davison, Michigan.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. CSB Bancshares, Inc.'s Amended ESOP, Ellsworth, Kansas; to become a bank holding company by acquiring 26.68 percent of the voting shares of CSB Bancshares, Inc., Ellsworth, Kansas, and thereby indirectly acquire Citizens State Bank and Trust Company, Ellsworth, Kansas.

2. First Ada Bancshares, Inc., Ada, Oklahoma; to merge with Prague Bancorp, Inc., Prague, Oklahoma, and thereby indirectly acquire Prague National Bank, Prague, Oklahoma.

Board of Governors of the Federal Reserve System, October 29, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–28812 Filed 11–3–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225), to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 19, 1999.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Skandinaviska Enskilda Banken AB (publ), Stockholm, Sweden; to engage *de novo* through its subsidiary, Enskilda Securities Inc., New York, New York, in financial and investment advisory activities, pursuant to § 225.28(b)(6) of Regulation Y.

Board of Governors of the Federal Reserve System, October 29, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–28813 Filed 11–3–99; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Notice of Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of a Special Emphasis Panel (SEP) meeting.

SEPs are committees used for scientific review activities. These committees have members drawn from a list of experts who are designated to serve for particular individual meetings rather than for extended fixed terms of service.

Substantial segments of the upcoming SEP meeting listed below will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6). Grant applications are to be reviewed and discussed at this meeting. These discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure under the above-cited statutes.

1. *Name of SEP:* HIV/AIDS.

Date: November 19, 1999 (Open from 2:00 p.m. to 2:15 p.m. and closed for remainder of the meeting)

Place: AHCPR, 2101 E. Jefferson Street, suite 400W Rockville, Maryland 20852.

Contact Person: Anyone wishing to obtain a roster of members or minutes of the meeting should contact Ms. Jenny Griffith, Committee Management Officer, Office of Research Review, Education and Policy, AHCPR, 2101 East Jefferson Street, Suite 400, Rockville, Maryland 20852, Telephone (301) 594–1847.

Agenda items for this meeting are subject to change as priorities dictate.

This notice is being published less than 15 days prior to the November 19 meeting due to the time constraints of reviews and funding cycles.

Dated: October 29, 1999.

John M. Eisenberg,

Administrator.

[FR Doc. 99–28946 Filed 11–3–99; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–00–06]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention is providing opportunity for public comment on proposed data collection projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) The accuracy of the agency's estimate of the burden of the proposed collection of information; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. Evaluation of Viral Hepatitis Educational Materials—New—National Center for Infectious Disease (NCID). The purpose of the proposed study is to assess the usefulness of hepatitis educational materials developed and

distributed by the Hepatitis Branch, CDC. Annually, 125,000–200,000 Americans are infected with hepatitis A virus (HAV) and results in approximately 100 deaths. The estimated cost associated with HAV infections is estimated at $200 million a year in medical care and lost work days. An estimated 1 million to 1.25 million Americans are chronically infected with hepatitis B virus (HBV) and 4,000 to 5,000 die each year due to resultant cirrhosis and liver cancer. The estimated cost associated with HBV infections is estimated at $700 million a year in medical care and lost work days. It is estimated that 3.9 million Americans have been infected with hepatitis C virus (HCV), 2.7 million of which are chronically infected. Not including the cost of liver transplantation, the estimated cost associated with HCV infections is $600 million a year in medical care and lost work days.

There are no costs to respondents other than their time to participate.

Form name	Number of respondents	Number of responses/respondent	Avg. burden per responses (in hours)	Total burden (in hours)
Phone	200	1	0.33	66
Written	2400	1	0.33	792
Total				858

Date: October 28, 1999.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–28844 Filed 11–3–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control And Prevention

[60Day–00–07]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork reduction Act of 1995, the Centers for Disease Control and Prevention is providing opportunity for public comment on proposed data collection projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. Telephone Survey Measuring HIV/STD Risk Behavior Using Standard Methodology—New—The Behavioral Surveillance Working Group, coordinated by the National Center for HIV, STD and Tuberculosis Prevention (NCHSTP). Proposes to conduct testing of a set of survey questions intended to obtain measures of risk behaviors for Human Immunodeficiency Virus (HIV) and Sexually Transmitted Diseases (STDs). Knowledge about the level of HIV risk behaviors in populations is essential for effective HIV prevention programs. Currently, survey-based assessment of these behaviors depends on a range of survey questions that differ across survey, and that are difficult to compare and to reconcile. Therefore, CDC has developed a draft set of items to be proposed as standard survey questions on the topics of sexual behavior, HIV testing, drug use, and other behaviors related to risk of contracting HIV and/or STDs. As part of this effort, CDC will sponsor a telephone-based pretest of 150 households, selected randomly from within an urban area, in order to test these questions.

Further, because some of the survey questions are private and potentially sensitive, the project will entail the testing of a survey administration mode: Telephone-based audio computer-assisted self-interview (T–ACASI), in which a computer will be used to administer the most sensitive questions, and in which the surveyed individual enters responses directly onto the telephone keypad. This procedure eliminates the need for communication of sensitive questions from the interviewer to the respondent, as well as the need for respondents to answer the questions verbally. In order to test the effectiveness of this procedures, half of the interviews will be conducted using the T–ACASI procedure for the most sensitive questions, and half using standard, interviewer-based administration of all questions. Data analysis will rely on an assessment of the response rate under each mode, and on the nature of the data obtained to the sensitive questions.

Information and data obtained from this evaluation will help direct future surveys by determining whether it is feasible to attempt to administer these standard risk questions using a telephone survey and whether a T–ACASI-based procedure represents a technological innovation that will positively contribute to such an effort, through improvements in data quality.

The total cost to respondents is $505.60.

Respondents	Number of respondents	Number of responses/respondent	Avg. burden per response (in hours)	Total burden (in hours)
Screening	660	1	0.02	13.2
Interview	150	1	0.33	50.0

Respondents	Number of respondents	Number of responses/respondent	Avg. burden per response (in hours)	Total burden (in hours)
Total				63.2

Dated: October 28, 1999.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–28845 Filed 11–3–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00009]

Availability of Funds for Fiscal Year 2000; Cooperative Agreement for a National Immunization Coalition and Information Network

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2000 funds for a cooperative agreement program for a National Immunization Coalition and Information Network. This program addresses the ''Healthy People 2000'' priority area of Immunization and Infectious Diseases.

The purpose of this program is to create a national coalition and information network to improve the effectiveness of efforts to reduce vaccine preventable disease among children, adolescents, and adults. This program will be accomplished through fostering collaboration among public and private nonprofit organizations, Federal government agencies, State and local governments, National Immunization Program partners and grantees, and others.

This program will improve knowledge and awareness of health care providers, public and private health organizations, and other public health groups about immunization recommendations, practices, programs, and benefits by:

1. Fostering the creation of new partnerships and working to build new and effective coalitions to identify and address educational needs regarding immunization issues.

2. Developing materials which translate technical immunization guidelines, recommendations, and information into formats which are appropriate, understandable, and useful to targeted audience(s).

3. Identifying successful interventions among immunization programs by networking with private providers and public health organizations to identify successful programs and effective immunization strategies and tactics, including case examples, educational materials, media and partner relationship strategies, and public relations practices.

4. Distributing appropriate, understandable, and useful technical immunization guidelines, educational materials, and information regarding successful immunization programs to national, State, and local health care providers, advocacy groups, private providers, and public health organizations, including State and local health departments and other National Immunization Program partners.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations. Tax-exempt status may be confirmed by either providing a copy of the pages from the Internal Revenue Service's (IRS) most recent list of 501(c)(3) tax-exempt organizations or a copy of the current IRS Determination Letter. Proof of tax-exempt status must be provided in the application.

C. Availability of Funds

Approximately $500,000 will be available to fund one cooperative agreement. It is expected that this award will begin on or about February 1, 2000, and will be made for a 12-month budget period within a project period of up to three years. The funding estimate may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Funds cannot be used for construction or renovation, to purchase or lease vehicles or vans, to purchase a facility to house project staff or carry out project activities, or to supplant existing support.

D. Cooperative Activities

To achieve the purpose of this cooperative agreement, the recipient will be responsible for the activities under ''Recipient Activities'' below. CDC will be responsible for activities under ''CDC Activities'' below.

Recipient Activities

1. Convene 1–2 meetings per year of public and private health care providers, volunteer groups, community-based organizations, members of the corporate sector, and other public health organizations to inform them of the most current immunization issues, identify and address education needs regarding immunizations in an effort to gain support in reaching national immunization goals.

2. Utilize recommendations by the National Immunization Program, Advisory Committee on Immunization Practice (ACIP), American College of Physicians (ACP), American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP) to create new materials which facilitate the understanding, adoption, and use of those recommendations by the targeted audience(s).

3. Identify major immunization issues, promotional literature and activities, educational materials, and immunization statistics on the national, State, and local levels that involves, or affects, efforts to reduce vaccine preventable disease among children, adolescents, and adults.

4. Establish and implement mechanisms for promoting effective immunization practices and programs and distributing collected materials and information to health care organizations and interest groups around the country. For example, promote current programs such as the CDC National Immunization Information Hotline.

5. Actively participate in conferences and meetings on the National and State level that focus on highlighting model programs and strategies, information exchange, addressing immunization issues, and maintaining or increasing child, adolescent, and adult immunization coverage levels.

6. Establish and implement mechanisms for evaluating the reach of the program and effectiveness of the materials produced.

CDC Activities

1. Provide technical assistance in implementing activities, identifying major immunization issues and effective programs.

2. Provide scientific collaboration for appropriate aspects of the activities, including information on disease impact, vaccination coverage levels, and prevention strategies.

3. Assist in development and review of relevant immunization information made available to Federal, State, and local health agencies, health care providers, and volunteer organizations.

4. In conjunction with the recipient, evaluate the reach of the program and effectiveness of the materials produced.

E. Application Content

Use the information in the Cooperative Activities, Other Requirements, and Evaluation Criteria sections to develop the application content. Applications will be evaluated on the criteria listed, so it is important to follow them in laying out the program plan. The application should be no more than 35 double-spaced pages, printed on one side, with one-inch margins, and 12 point font, not including attachments.

Organization Profile

1. Provide a narrative, including background information and information on the applicant organization, evidence of relevant experience in coordinating activities among constituents, and a clear understanding of the purpose of the project.

2. Include details of past experiences working with the target population(s). Provide information on organizational capability to conduct proposed project activities.

3. Profile qualified and experienced personnel who are available to work on the project and provide evidence of the organizational structure that is proposed to meet the requirements of the project. Include an organizational chart of the applicant organization specifying the location and staffing plan for the proposed project.

Program Plan

1. Include goals and measurable impact and process objectives that are specific, realistic, measurable, and time-phased. Include an explanation of how the objectives contribute to the purposes of the request for assistance and evidence that demonstrates the potential effectiveness of the proposed objectives.

2. Detail an action plan, including a timeline of activities and personnel responsible for implementing each segment of the plan.

3. Prepare a plan to include impact and process evaluation utilizing both quantitative and qualitative measures for the achievement of program objectives to determine the reach and effectiveness of the message promoted by the awardee, and monitor the implementation of proposed activities. Indicate how the quality of services provided will be ensured.

4. Provide a plan for disseminating project results indicating when, to whom, and in what format the material will be presented.

5. Provide a plan for obtaining additional resources from non-Federal sources to supplement program activities and ensure continuation of the activities after the end of the project period.

Collaboration Activities

1. Obtain and include letters of support, written in the last 12 to 24 months, from local and national organizations and constituents.

2. Provide memoranda of agreement from collaborating organizations indicating a willingness to participate in the project, the nature of their participation, period of performance, names and titles of individuals who will be involved in the project, and the process of collaboration. Each memorandum should also show an understanding and endorsement of immunization activities.

3. Provide evidence of collaborative efforts with health departments, provider organizations, coalitions, and other local organizations.

Budget Information

1. Provide a detailed budget with justification. The budget proposal should be consistent with the purpose and program plan of the proposed project.

2. Provide an itemized (line-item) budget categorized by objective.

3. Also provide, if known at the time of application, the name of the contractor, method of selection, budget etc.

F. Submission and Deadline

Submit the original and two copies of the application PHS 5161–1, (OMB Number 0937–0189). Forms are in the application kit.

On or before December 20, 1999, submit the application to: Sharron Orum, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement Number 00009, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for orderly processing. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC:

1. *Background and Need:* The extent to which the applicant understands the problem of under-immunization and proposes a plan to address the issues specific to their constituents. (15 points)

2. *Capability:* The extent to which the applicant appears likely to succeed in implementing proposed activities as measured by relevant past experience, a sound management structure, and staff qualifications, including the appropriateness of their proposed roles and responsibilities and job descriptions. The applicant:

a. Must have three years of demonstrated history of producing or disseminating written health promotion, disease prevention, or immunization related written communication materials, such as newsletters, media kits, posters, brochures, or information sharing documents.

b. Must have three years of demonstrated history of sponsoring and/or organizing meetings at a regional or national level with the purpose of sharing information, transferring skills, and promoting immunization initiatives.

c. Must have three years of demonstrated history of working with and accessing major agencies, private and public sector public health organizations, professional health associations, volunteer groups, and other organizations across the country, and demonstrate their capability to motivate and manage other organizations to participate with a national immunization coalition. (25 points)

3. *Program Plan:* The feasibility and appropriateness of the applicant's action plan to identify immunization issues and new developments (e.g., new recommendations), communicate with, and reach, targeted populations, translate technical immunization information into appropriate new formats, develop and disseminate effective immunization materials and information, and establish and implement a national immunization information sharing/dissemination network. (30 points)

4. *Coordination and collaboration:* The extent to which the applicant proposes to develop and maintain a National Immunization Coalition and Information Network, and coordinate the activities of that coalition with State and local immunization programs, State and local coalitions, provider organizations, and other appropriate agencies. (20 points)

5. *Evaluation Plan:* The extent to which the applicant proposes to evaluate the proposed plan, including impact and process evaluation, as well as quantitative and qualitative measures for achievement of program objectives, determining the health effect on the population, and monitoring the implementation of proposed activities. (10 points)

6. *Budget and Justification:* The extent to which the proposed budget is adequately justified, reasonable, and consistent with proposed project activities and this program announcement. (Not Scored)

H. Other Requirements

Technical Reporting Requirements

Provide CDC with the original plus two copies of:

1. Progress reports (annual, semiannual, or quarterly);

2. Financial status report, no more than 90 days after the end of the budget period;

3. Final financial report and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Appendix II in the application kit.

AR98–10—Smoke-Free Workplace

AR98–11—Healthy People 2000

AR98–12—Lobbying Restriction

AR98–14—Accounting System Requirements

AR98–15—Proof of Non-Profit Status

AR98–20—Conference Support

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 311 [42 U.S.C. 243] and 317(k)(2), [42 U.S.C. 247b(k)(2)] of the Public Health Service Act as amended. The Catalog of Federal Domestic Assistance number is 93.185.

J. Where To Obtain Additional Information

This and other CDC announcements and application forms may be downloaded from the CDC Internet home page—http://www.cdc.gov. Click on ''funding.''

Interested parties without Internet access may request an application kit by calling 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Sharron Orum, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement 00009, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, Georgia 30341, Telephone (770) 488–2716; FAX (770) 488–2777); E-mail address: spo2@cdc.gov.

For program technical assistance, contact: Glen Nowak, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, Mailstop E–05, Atlanta, Georgia 30333, Telephone (404) 639–8200; FAX (404) 639–8626, E-mail address: gjn0@cdc.gov.

Dated: October 28, 1999.

Henry S. Cassell,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–28842 Filed 11–3–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

President's Committee on Mental Retardation; Notice of Meeting

AGENCY: President's Committee on Mental Retardation, HHS.

ACTION: Notice of meeting.

DATES: The meeting of the President's Committee on Mental Retardation will be held on Tuesday, November 30, 1999, from 1 p.m. to 5:30 p.m., Wednesday, December 1, 1999, from 9 a.m. to 5:30 p.m, and Thursday, December 2, 1999, from 9 a.m. to 12 noon.

ADDRESSES: The meeting will be held in the Washington Court Hotel, 525 New Jersey Avenue, NW, Washington, DC 20001. Full Committee Meetings are open to the public. An interpreter for the deaf will be available upon advance request. All meeting sites are barrier free.

AGENDA: The Committee plans to discuss critical issues concerning Federal Policy, Federal Research and Demonstration, State Policy Collaboration, Minority and Cultural Diversity and Mission and Public Awareness, relating to individuals with mental retardation.

FOR FURTHER INFORMATION CONTACT: Jane L. Browning, Executive Director, President's Committee on Mental Retardation, 370 L'Enfant Promenade, SW, Washington, DC 20447, (202) 619–0634.

SUPPLEMENTARY INFORMATION: The PCMR acts in an advisory capacity to the President and the Secretary of the U.S. Department of Health and Human Services on a broad range of topics relating to programs, services, and supports for persons with mental retardation. The Committee, by Executive Order, is responsible for evaluating the adequacy of current practices in programs and supports for persons with mental retardation, and for reviewing legislative proposals that impact the quality of life that is experienced by citizens with mental retardation and their families.

Dated: October 26, 1999.

Jane L. Browning,

Executive Director, PCMR.

[FR Doc. 99–28799 Filed 11–3–99; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–2250]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Current Good Manufacturing Practices for Blood and Blood Components; Notification of Consignees Receiving Blood and Blood Components at Increased Risk for Transmitting HIV Infection

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Submit written comments on the collection of information by December 6, 1999.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Current Good Manufacturing Practices for Blood and Blood Components; Notification of Consignees Receiving Blood and Blood Components at Increased Risk for Transmitting HIV Infection—21 CFR 606.100, 606.160, 610.46, and 610.47 (OMB Control No. 0910–0336)—Extension

Under the biologics licensing and quarantine provisions of the Public Health Service Act (42 U.S.C. 262–264) and the general administrative provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351–353, 355–360, and 371–374), FDA has the authority to issue regulations designed to protect the public from unsafe or ineffective biological products and to issue regulations necessary to prevent the introduction, transmission, or spread of communicable diseases. FDA has implemented an extensive system of donor screening and testing procedures performed by blood establishments before, during, and after donation, to help prevent the transfusion of blood products that are at increased risk for transmitting human immunodeficiency virus (HIV). HIV is the virus that causes acquired immune deficiency syndrome (AIDS), a communicable disease that can be transmitted through transfusion. Despite the best practices of blood establishments, however, a person may donate blood early in infection, during the period when the antibody to HIV is not detectable by a screening test, but HIV is present in the donor's blood (a so-called ''window'' period). If the donor attempts to donate blood at a later date, the test for antibody to HIV may, at that time, be repeatedly reactive. Therefore, FDA believes such circumstances require clarification of the donor's status through testing with a more specific antibody test and procedures to ''lookback'' at prior collections.

FDA issued regulations that require blood establishments to follow written standard operating procedures (SOP's) when the blood establishments have collected Whole Blood, blood components, Source Plasma, and Source Leukocytes later determined to be at increased risk for transmitting HIV. When a donor who previously donated blood is tested on a later donation, and tests repeatedly reactive for antibody to HIV, the regulations require blood establishments to perform more specific testing using a licensed test, and notify consignees who received Whole Blood, blood components, Source Plasma, and Source Leukocytes from prior collections so that appropriate action is taken. Blood establishments and consignees are required to quarantine previously collection Whole Blood, blood components, Source Plasma, and Source Leukocytes from such donors, and if appropriate, notify transfusion recipients. Upon completion of more specific testing, hospital transfusion services that do not participate in Medicare, and are therefore not subject to Health Care Financing Administration's (HCFA's) regulations, are required to take steps to notify transfusion recipients, as appropriate. These regulations are intended to help ensure the continued safety of the blood supply by providing necessary information is provided to users of blood and blood components and appropriate notification of recipients of transfusion at increased risk for transmitting HIV infection.

Section 606.100(b)(19) (21 CFR 606.100(b)(19)) requires written SOP's for the following procedures: (1) Review prior donations of blood and blood products from donors with no previous history of antibody to HIV who subsequently test repeatedly reactive for the antibody to HIV; (2) quarantine in-house blood and blood products; (3) notify consignees regarding the need to quarantine such products; (4) determine the suitability for release of such products from quarantine; (5) notify consignees of such products with antibody testing results from ''lookback'' donors; and (6) notify attending physicians so that transfusion recipients are informed that they may have received blood and blood components at increased risk for transmitting HIV. Section 606.160(b)(1)(vii) (21 CFR 606.160(b)(1)(vii)) requires records to relate the donor with the unit number of each previous donation from that donor. Section 606.160(b)(1)(viii) requires records of quarantine, notification, testing, and disposition performed under §§ 610.46 and 610.47 (21 CFR 610.46 and 610.47). Section 610.46(a) requires blood establishments to notify consignees, within 72 hours, of repeatedly reactive tests results so that previously collected blood and blood components are appropriately quarantined. Section 610.46(b) requires blood establishments to notify consignees of licensed, more specific test results for HIV within 30-calendar days after the donors's repeatedly reactive test. Section 610.47(b) requires transfusion services not subject to HCFA regulations to notify physicians of prior donation recipients or to notify recipients themselves of the need for HIV testing and counseling. There are approximately 3,076 registered blood establishments that annually collect an estimated 24 million units of Whole Blood and Source Plasma, and that are required to follow FDA ''lookback'' procedures. Of these establishments, approximately 180 are registered transfusion services that are not subject to HCFA's ''lookback'' regulations.

The following reporting and recordkeeping estimates are based on information provided by industry, and FDA experience. In Table 1 of this document, it is estimated that an average of 60 repeat donors per establishment will test repeatedly reactive annually. This estimate results in a total number of 184,560 notifications of these test results to consignees by blood establishments for the purpose of quarantine of affected products, and another 184,560

notifications to consignees of subsequent test results. It is estimated that transfusion services not subject to HCFA's regulations will need to notify physicians, or in some cases recipients, an average of 16 times per year resulting in a total number of 2,880 notifications. FDA estimates an average of 10 minutes per notification of consignees, physicians, and recipients. The estimate of one-half hour for § 610.47(b) is based on the minimum requirement of three attempts to notify recipients by transfusion services. In Table 2 of this document, the estimate of 154 recordkeepers and 160 records is based on the estimate that the requirement is already implemented voluntarily by more than 95 percent of the facilities, which collect 98 percent of the Nation's blood supply. FDA estimates that it takes approximately 5 minutes to document and maintain the records to relate the donor with the unit number of each previous donation. The establishment of SOP's under § 606.100(b)(19) is a one-time burden. The maintenance of the SOP's is considered usual and customary business practice, therefore no burden is calculated for the preparation and updating of the SOP.

In the **Federal Register** of August 3, 1999 (64 FR 42132), the agency requested comments on the proposed collections of information. No significant comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
610.46(a)	3,076	60	184,560	0.17	31,375
610.46(b)	3,076	60	184,560	0.17	31,375
610.47(b)	180	16	2,880	0.5	1,440
Total					64,190

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
606.160(b)(1)(vii)	154	160	24,640	12.8	1,971
606.160(b)(1)(viii)	3,076	60	184,560	4.8	14,765
Total					16,736

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: October 27, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 99–28808 Filed 11–3–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–276]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection;

Title of Information Collection: Prepaid Health Plan Cost Report;

Form No.: HCFA–276 (OMB# 0938–0165);

Use: These forms are needed to establish the reasonable cost providing covered services to the enrolled Medicare population of Health Maintenance Organizations and Competitive Medical Plans (HMO/CMP) in accordance with Section 1876 of the Social Security Act and Health Care Prepayment Plans (HCPP) in accordance with Section 1833 of the Social Security Act;

Frequency: Quarterly, Annually;

Affected Public: Business or other for-profit;

Number of Respondents: 62;

Total Annual Responses: 327;

Total Annual Hours: 11,600.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access

HCFA's WEB SITE ADDRESS at

http://www.hcfa.gov/regs/prdact95.htm,

or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: October 20, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–28837 Filed 11–3–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301) 443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Uncompensated Services Assurance Report (OMB No. 0915–0077)—Extension

Under the Hill-Burton Act, the Government provides grants and loans for construction or renovation of health care facilities. As a condition of receiving this construction assistance, facilities are required to provide services to persons unable to pay. A condition of receiving this assistance requires facilities to provide assurances periodically that the required level of uncompensated care is being provided, and that certain notification and recordkeeping procedures are being followed. These requirements are referred to as the uncompensated services assurance.

ESTIMATE OF INFORMATION COLLECTION BURDEN

Type of requirement and regulatory citation	Number of Respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
Disclosure Burden (42 CFR):					
Published Notices (124.504(a))	389	1	389	0.75	292
Individual Notices (124.504(c))	389	1	389	43.6	16,960
Determinations of Eligibility (124.507)	389	396	154,044	0.75	115,533
Reporting:					
Uncompensated Services Report—HRSA–710 Form (124.509(a))	10	1	10	11.0	110
Application for Compliance Alternatives:					
Public Facilities (124.513)	4	1	4	6.0	24
Small Obligation Facilities (124.514(c))	0				
CHC, MHC, NHSC (124.515(b)(2)(ii) and 124.515(b)(3)(iii)(B))	0				
Charitable Facilities (124.516(c))	2	1	2	6.0	12
Annual Certification for Compliance Alternatives:					
Public Facilities (124.509(b))	195	1	195	0.5	98
Charitable Facilities (124.509(b))	26	1	26	0.5	13
Small Obligation Facilities (124.509(c))	1	1	1	0.5	0.5
Complaint Information (124.511(a)):					
Individuals	10	1	10	0.25	3
Facilities	10	1	10	0.5	5
Total Reporting and Notification Burden	617		155,080		133,051

Recordkeeping requirements	Number of recordkeepers	Hours per year	Total hour burden
Non-alternative Facilities (124.510(a))	389	50	19,450

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Wendy A. Taylor, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: October 29, 1999.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99–28810 Filed 11–3–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Annual Administrative Reporting System for the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act of 1990 for Titles I amd II (OMB No. 0915–0166): Revision

OMB approval is requested for the Annual Administrative Reporting System (AAR) established in 1994 to collect information from grantees and their subcontracted service providers. The AAR collects aggregate information from grantees about the disbursal of funds, number of clients served and services provided, demographic information about clients served, and

cost of providing services funded under Title I and II of the Ryan White CARE Act.

The primary purpose of the AAR is to: (1) Document the use of Title I and Title II funds and the providers who received them, (2) assess the effects of these funds on the number and diversity of individuals served, (3) evaluate the quantity of services received, and (4) help examine the effectiveness of coordinated systems of care in meeting the needs of individuals living with HIV. In addition to meeting the goal of accountability to Congress, clients, advocacy groups, and the general public, the AAR supports critical efforts by HRSA, state and local grantees, and providers to assess the status of existing HIV-related service delivery systems.

Separate reports were developed to collect aggregate data from the three program types that receive funds under Title I and/or Title II: (1) Title I programs, Title II programs; (2) centrally administered state programs for the continuation of health insurance; and (3) state programs providing HIV prescription drug assistance.

The following changes to the AAR are proposed to improve the accuracy of the data collected and facilitate local analysis of primary medical care outcome measures: Certain funding questions will be eliminated, all questions will require numerical responses, not percentages; some questions will be restricted to certain providers; and a set of questions has been added to help evaluate primary medical services.

The estimated response burden is as follows:

Form name	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
Standard Annual Administrative Report (SAAR)					
Medical providers	660	1	660	35	23,100
Non-medical providers	1,975	1	1,975	20	39,500
Grantees	105	1	105	24	2,520
AIDS Pharmaceutical Assistance Annual Administrative Report (includes State ADAP and local APA pharmaceutical programs)					
Administrator/Grantee	76	1	76	25	1,900
Health Insurance Continuation Program					
Administrative/Grantee	66	1	66	18.5	1,221
Total	2,882	1	2,882		68,241

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Wendy A. Taylor, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: October 29, 1999.

Jane Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99–28811 Filed 11–3–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration Advisory Council; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1999.

Name: Maternal and Child Health Research Grants Review Committee.

Date and Time: November 17–19, 1999; 8:00 a.m.–5:00 p.m.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814.

The meeting is open to the public on Wednesday, November 17 from 8–10 a.m., and closed for the remainder of the meeting.

Agenda: The open portion of the meeting will cover opening remarks by the Acting Director, Division of Research, Training and Education, who will report on program issues, congressional activities, and other topics of interest to the field of maternal and child health. The meeting will be closed to the public on Wednesday, November 17, 1999, from 10:00 a.m., to the remainder of the meeting, for the review of grant applications. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., and the Determination by the Associate Administrator for Management and Program Support, Health Resources and Services Administration, pursuant to Public Law 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write or contact Gontran Lamberty, Dr. P.H., Executive Secretary, Maternal and Child Health Research Grants Review Committee, Room 18A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, or by telephone at (301) 443–2190.

Dated: October 28, 1999.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 99–28809 Filed 11–3–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Data Collection; Comment Request; California Health Interview Survey (CHIS)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Institutes of Health (NIH), National Cancer Institute (NCI) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: California Health Interview Survey (CHIS) Cancer Control Topical Module (CCTM). *Type of Information Collection Request:* New. *Need and Use of Information Collection:* NCI has sponsored two Cancer Control

Topical Modules to the National Health Interview Survey (NHIS) in 1987 and 1992, and will sponsor a third to be administered in 2000. While these national data have proven extremely useful in monitoring risk factors and screening related to cancer control, the national sample does not provide adequate numbers of racial-ethnic minorities to analyze particular domains within them, such as age by gender and income or education. The CHIS is a new telephone survey designed to provide population-based, standardized health-related data for California counties. Initiated by the California Department of Health Services (CDHS) Center for Health Statistics, the Public Health Institute (PHI), and the UCLA Center for Health Policy Research (UCLA), the survey will largely be funded by California sources. The 2000 CHIS CCTM will be similar in content to the 2000 NHIS CCTM, and will be administered to one sample adult in 55,000 households. California, the most populous state in the nation, is also the most racially and ethnically diverse. Specific populations of interest include Black or African American, Hispanic or Latino, Asian, Native Hawaiian or Other Pacific Islander, and American Indian or Alaska Native. NCI anticipates comparing the CHIS and NHIS data in order to conduct comparative and pooled analyses that will enable better estimates of health-related behaviors and cancer risk factors for smaller racial/ethnic minority populations. In this way, NCI anticipates improving its estimates for cancer risk factors and screening among racial/ethnic minority populations. *Frequency of response:* One-time. *Affected public:* Individuals. *Types of Respondents:* U.S. adults. The annual reporting burden is as follows:

TABLE A.12–1.—ANNUALIZED BURDEN ESTIMATES FOR CHIS DATA COLLECTION

Data collection	Estimated number of respondents	Frequency of response	Average time per response	Annual hour burden
Adult Core	55,000	1	.5	27,500
CCTM	55,000	1	.2004	11,022
Totals	55,000			38,522

There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proposed performance of the functions of the agency, including whether the information shall have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

For further Information: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Nancy Breen, Ph.D., Project Officer, National Cancer Institute, EPN 313, 6130 Executive Boulevard MSC 7344, Bethesda Maryland 20892–7344, or call non-toll-free number (301) 496–8500, or FAX your request to (301) 435–3710, or E-mail your request, including your address, to nb19k@nih.gov.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received on or before January 3, 2000.

Dated: October 26, 1999.

Reesa L. Nichols,

NCI Project Clearance Liaison.

[FR Doc. 99–28919 Filed 11–3–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Minority Based Community Clinical Oncology Program.

Date: November 30–December 2, 1999.

Time: 7 am to 3 pm.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW, Washington, DC 20015.

Contact person: Ray Bramhall, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Blvd, Rockville, MD 20892, (301) 496–3428.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393; Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 26, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28922 Filed 11–3–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Northern Indiana Cancer Research Consortium.

Date: November 30, 1999.

Time: 9 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites, Chevy Chase Pavilion, 4300 Military Rd., Wisconsin at Western Ave., Washington, DC 20015.

Contact Person: Ray Bramhall, Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Blvd, Rockville, MD 20892, (301) 496–3428.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnostic Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 26, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28923 Filed 11–3–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Special Review Committee for Training (T 32) Grants.

Date: November 17, 1999.

Time: 1 to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: 6130 Executive Blvd. 6th Floor, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Harvey P. Stein, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard, Rockville, MD 20892, 301–496–7481.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control National Institutes of Health, HHS)

Dated: October 26, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28924 Filed 11–3–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Early Detection Research Network: Data Management and Coordinating Center.

Date: November 18, 1999.

Time: 8 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Gerald G. Lovinger, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard/EPN—Room 630D, Rockville, MD 20892–7405, 301/496–7987.

(Catalog of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS).

Dated: October 26, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28925 Filed 11–3–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel Review of a Cancer Education Grant.

Date: November 4, 1999.

Time: 5 p.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Georgetown, 2101 Wisconsin Avenue, N.W., Washington, DC 20007.

Contact Person: Olivia T. Preble, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard—Rm. 643B, Rockville, MD 20892–7405, 301/496–7929.

This notice is being published less than 15 days prior to the meeting due to the timing

limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction, 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 26, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28926 Filed 11–3–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel.

Date: December 20, 1999.

Time: 1 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, National Institutes of Health, Building 31, Room B2B32, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Rudy O. Pozzatti, Scientific Review Administrator, Office of Scientific Review, National Human Genome Research Institute, National Institutes of Health, Bethesda, MD 20892, 301–402–0838.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: October 26, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28920 Filed 11–3–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: November 16, 1999.

Time: 1 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: Executive Plaza South, Room 400C, 6120 Executive Blvd., Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Craig A. Jordan, Chief, Scientific Review Branch, NIH/NIDCD/DER, Executive Plaza South, Room 400C, Bethesda, MD 20892–7180, 301–496–8683.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: November 30, 1999.

Time: 8:30 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Westin Fairfax Hotel, 2100 Massachusetts Ave, N.W. Washington, DC 20008.

Contact Person: Stanley C. Oaks, Jr., Scientific Review Branch, Division of Extramural Research, Executive Plaza South, Room 400C, Bethesda, MD 20892–7180, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: October 28, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28927 Filed 11–3–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: November 29, 1999.

Time: 1 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Henry J. Haigler, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, 301/443–7216.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: December 3, 1999.

Time: 8:30 am to 3 pm.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Henry J. Haigler, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, 301/443–7216.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: December 6, 1999.

Time: 12 pm to 1 pm.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Henry J. Haigler, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, 301/443–7216.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research

Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: October 28, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28928 Filed 11–3–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Regulation of Developmental Signaling.

Date: November 3–4, 1999.

Time: 7:30 am to 3 pm.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, Orange county Airport, 2120 Main Street, Irvine, CA 92614.

Contact Person: Gopal M.Bhatnagar, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, PHS, DHHS, 9000 Rockville Pike, 6100 Bldg., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: October 28, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28931 Filed 11–3–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 5, 1999.

Time: 3 pm to 6 pm.

Agenda: To review and evaluate grant applications.

Place: Hyatt Fair Lakes, 12777 Fair Lakes Circle, Fairfax, VA 22033.

Contact Person: Cheryl M. Corsaro, PHD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2204, MSC 7890, Bethesda, MD 20892, 301–435–1045, corsaroc@csr.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 26, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28921 Filed 11–3–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 18, 1999.

Time: 1 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: George M. Barnas, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–0696.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 21–23, 1999.

Time: 8 am to 11 am.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select, University Center, Pittsburgh, PA 15213.

Contact Person: Mike Radtke, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892, (301) 435–1728.

Name of Committee: Center for Scientific Special Emphasis Panel.

Date: November 21–23, 1999.

Time: 8 am to 1 am.

Agenda: To review and evaluate grant applications.

Place: NIH Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sami A. Mayyasi, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7852, Bethesda, MD 20892, (301) 435–1169.

Name of Committee: Center for Scientific Special Emphasis Panel.

Date: November 23, 1999.

Time: 11 am to 12:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH Rockledge 2, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gordon L. Johnson, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7802, Bethesda, MD 20892, (301) 435–1212.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 29, 1999.

Time: 11 am to 1 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Sami A. Mayyasi, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7852, Bethesda, MD 20892, (301) 435–1169.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 29, 1999.

Time: 1 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Calbert A. Laing, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4210, MSC 7812, Bethesda, MD 20892, 301–435–1221, laingc@csr.nih.gov

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 30, 1999.

Time: 1 pm to 3 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ranga V. Srinivas, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7852, Bethesda, MD 20892, (301) 435–1167, srinivar@csr.nih.gov

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 28, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28929 Filed 11–3–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 5, 1999.

Time: 1 to 3 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Alec S. Liacouras, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7842, Bethesda, MD 20892, (301) 435–1740.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 28, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–28930 Filed 11–3–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[FA–108–2810–00–24–1E]

Reopening of the Call for Non-Federal Nominations to the Joint Fire Science Program Stakeholder Advisory Group

AGENCY: Office of the Secretary, Interior.

ACTION: Reopening of the public call for nominations to the Joint Fire Science Program Stakeholder Advisory Group.

SUMMARY: The Secretary of the Interior and the Secretary of Agriculture are reopening the call for public nominations to the Joint Fire Science Program Stakeholder Advisory Group to allow more time for the public to assemble and submit nomination materials. The initial notice was published in the **Federal Register** on Monday, June 21, 1999 (64 FR 33112). A second notice was published in the **Federal Register** on Tuesday, August 10, 1999 (64 FR 43404).

The purpose of this Stakeholder Advisory Group is to provide advice concerning priorities and approaches for research and implementation of research findings for the management of wildland fuels on lands administered by the Department of the Interior, through the Bureau of Indian Affairs, Bureau of Land Management, National Park Service, and U.S. Fish and Wildlife Service, and the Department of Agriculture, through the Forest Service.

DATES: Nominations should be submitted to the address listed below no later than December 6, 1999.

FOR FURTHER INFORMATION CONTACT: Dr. Bob Clark, Joint Fire Science Program Manager, National Interagency Fire Center, 3833 S. Development Ave., Boise, Idaho 83705, (208) 387–5349. Internet: bob__clark@blm.gov.

SUPPLEMENTARY INFORMATION: The Stakeholder Advisory Group will consist of 30 members, 15 Federal and 15 nonfederal. This call for nominations will establish the nonfederal membership on the Group. Group membership will be balanced in terms of categories of interest and geographic area represented.

Any individual or organization may nominate one or more persons to serve on the Joint Fire Science Program Stakeholder Advisory Group. Individuals may also nominate themselves for Group membership. All nomination letters should include the name, address, profession, relevant biographic data, and reference sources for each nominee, and should be sent to the above address. Letters of support should be from interests or groups that nominees claim to represent. This material will be used to evaluate nominees in terms of their expertise and qualifications for advising the Secretaries on matters pertaining to research into wildland fuels problems and implementation of strategies and solutions for managing the increasing fuel loadings on federally administered wildlands.

Nominations may be made for the following categories of interest:

Wildland fire management
Wildland fuels management
Air quality management
Public lands management
Forest ecology
Rangeland ecology
Hydrology
Conservation
Social science

Computer science and modeling
Tribal government
Public-at-large

The specific category that the nominee will represent should be identified in the letter of nomination.

Agency administrators will nominate Federal representatives, including: four (4) members from the U.S. Forest Service, and one member each from the Bureau of Land Management, the Bureau of Indian Affairs, the U.S. Fish and Wildlife Service, the National Park Service, the U.S. Geological Survey, the Department of Energy, the Department of Defense, the Environmental Protection Agency, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, and the Natural Resources Conservation Service.

Each Stakeholder Advisory Group Member will be appointed to serve a 2-year term. Members will serve without salary, but non-federal members will be reimbursed for travel and per diem expenses at current rates for Government employees.

The Group will meet at least once annually. Additional meetings may be called in connection with special needs for advice. The Department's Senior Policy Advisor, Office of Managing Risk and Public Safety, will be the Designated Federal Officer who will call meetings of the Group.

Dated: October 29, 1999.

John Berry,

Assistant Secretary for Policy, Management and Budget.

[FR Doc. 99–28935 Filed 11–3–99; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–016664

Applicant: Spirit Valley Wildlife Sanctuary, Spearfish, SD

The applicant requests a permit to import 1 captive born tiger (*Panthera tigris*) from Canada for public display and conservation education.

PRT–012014

Applicant: Rare Feline Breeding Center, Center Hill, FL

This is an amendment to the applicant's initial request to sell in foreign commerce and export a male and a female tiger (*Panthera tigris*) to Jinan Zoological Gardens in Shandong Province, China. The applicant now intends to export two males and two females for the purpose of enhancement of the survival of the species through propagation and conservation education.

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

PRT–018948

Applicant: David H. Hitzhusen, Rockford, IA.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management authority of the Republic of South Africa, for the purpose of enhancement of the species.

PRT–018938

Applicant: Jere Brunette, Essexvill, MI

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use

PRT–018939

Applicant: Brad Farrow, Alamo, CA

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Southern Beaufort Sea polar bear population, Northwest Territories, Canada for personal use.

PRT–018949

Applicant: Joseph Bartnicki, Old Forge, PA 18518

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be sent to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 700, Arlington, Virginia 22203. Telephone: 703/358–2104 or Fax: 703/358–2281 and must be received within 30 days of the date of publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: October 29, 1999.

Kristen Nelson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–28917 Filed 11–3–99; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On July, 19, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 137, Page 38687, that an application had been filed with the Fish and Wildlife Service by Randy Pope for a permit (PRT–013353) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on October 18, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On Aug. 12, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 155, Page 38687, that an application had been filed with the Fish and Wildlife Service by David N. Rain for a permit (PRT–015154) to import one polar bear (*Ursus maritimus*) trophy taken from the McClintock Channel population, Canada for personal use.

Notice is hereby given that on Sept. 18, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On Aug. 5, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 150, Page 42708, that an

application had been filed with the Fish and Wildlife Service by Larry Smith for a permit (PRT–015311) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on Oct. 6, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On Aug. 12, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 155, Page 44040, that an application had been filed with the Fish and Wildlife Service by Ron Watson for a permit (PRT–015398) to import one polar bear (*Ursus maritimus*) trophy taken from the Lancaster Sound population, Canada for personal use.

Notice is hereby given that on Oct. 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On August 7, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 130, Page 36890, that an application had been filed with the Fish and Wildlife Service by John F. Babler for a permit (PRT–014002) to import one polar bear (*Ursus maritimus*) trophy taken from the Southern Beaufort Sea Sound population, Canada for personal use.

Notice is hereby given that on Sept. 29, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On June 3, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 109, Page 30533, that an application had been filed with the Fish and Wildlife Service by Frank R. Daigle for a permit (PRT–010431) to import one polar bear (*Ursus maritimus*) trophy taken from the Southern Beaufort Sea Sound population, Canada for personal use.

Notice is hereby given that on Oct. 18, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On August 24, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 160, Page 45268, that an application had been filed with the Fish and Wildlife Service by Harry Koch for a permit (PRT–016090) to import one polar bear (*Ursus maritimus*) trophy taken from the Southern Beaufort Sea Sound population, Canada for personal use.

Notice is hereby given that on Oct. 19, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Notice is hereby given that on August 12, 1999, as authorized by the provisions of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

On October 27, 1999, a notice was published in the **Federal Register**, Vol. 64, No. 155, Page 44040, that an application had been filed with the Fish and Wildlife Service by Joe T. Lock for a permit (PRT–014012) to import one polar bear (*Ursus maritimus*) trophy taken from the Southern Beaufort Sea Sound population, Canada for personal use.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 700, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Kristen Nelson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–28918 Filed 11–3–99; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

DEPARTMENT OF AGRICULTURE

Bureau of Land Management

Forest Service

[MT–900–08–1220–00, 1616P]

Correction to a Notice of Availability for a Draft Off-Highway Vehicle Environmental Impact Statement and Plan Amendment

AGENCY: Bureau of Land Management, Interior and Forest Service, Agriculture.

ACTION: Notice correction.

SUMMARY: This is a correction to a notice of availability for the Bureau of Land Management (BLM) and Forest Service (FS) Draft Off-Highway Vehicle Environmental Impact Statement (EIS) and Plan Amendment for public lands administered by the BLM and FS Northern Region in Montana, North Dakota, and portions of South Dakota which was published in the **Federal Register** on October 22, 1999 (Volume 64, Number 204). The Draft EIS/Plan Amendment will not be distributed or available to the public until mid-November 1999. The agencies will issue a new notice of availability when the Draft EIS/Plan Amendment is distributed to the public. Open houses on the Draft EIS/Plan Amendment will be rescheduled. The dates, locations, and times will appear with the agencies notice of availability and in local newspapers.

ADDRESSES: Questions regarding this correction should be addressed to OHV Plan Amendment, Lewistown Field Office, P.O. Box 1160, Lewistown, MT 59457–1160.

FOR FURTHER INFORMATION CONTACT: Jerry Majerus, 406–538–1924 or Dick Kramer, 406–329–1008.

(Authority: Sec. 202, Pub. L. 94–579, 90 Stat. 2747 (43 U.S.C. 1712), Sec. 6, Pub. L. 94–588, 90 Stat. 2949 (16 U.S.C. 1604))

Dated: October 27, 1999.

Larry E. Hamilton,

State Director, Bureau of Land Management.

Dale N. Bosworth,

Regional Forester, U.S. Forest Service.

[FR Doc. 99–28843 Filed 11–3–99; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–13000–00–1150–PC]

Additional 32 Acres to the Unaweep Seep Research Natural Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of land-use designation.

SUMMARY: Public lands within the Unaweep Seep area, heretofore outside the Unaweep Seep Research Natural Area, are designated as a Research Natural Area coincident with the earlier designation (48 FR 23716, May 26, 1983) under the authority of 43 CFR part 8223. The designated area contains 32 acres located in Mesa County, Colorado and described as: T.15 S., R.103 W., 6th P.M., Sec. 10 NW¼NE¼ (portion of), NE¼NW¼ (portion of). The total area of the Unaweep Seep Natural Area becomes 80 acres.

DATES: This action is effective November 5, 1999.

SUPPLEMENTARY INFORMATION: Following a transfer of property to public

ownership in 1997 along the boundary of The Palisade Wilderness Study Area, at a site on the southern edge of the Unaweep Seep Research Natural Area, a 32 acre portion of this property meeting the criteria of the Research Natural Area becomes available for inclusion into this land management designation. This action is compatible with the Grand Junction Resource Area Resource Management Plan (1987). Including the area in the Unaweep Seep Research Natural Area accomplishes a 24 year objective in the Whitewater Management Framework Plan. The addition completes the enclosure of the entire natural feature known as the Unaweep Seep in a protective designation. It extends the conditions contained in 48 FR 23716 (5–26–83) to these additional acres.

FOR FURTHER INFORMATION CONTACT: Ron Lambeth (970) 244–3013 or in writing to the Field Office Manager, Bureau of Land Management, 2815 H Road, Grand Junction, CO 81506.

Catherine Robertson,

Field Office Manager.

[FR Doc. 99–28784 Filed 11–3–99; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–930–1430–01; AZA 31024]

Notice of Proposed Withdrawal; Arizona; Correction

AGENCY: Bureau of Land Management.

ACTION: Notice; Correction.

SUMMARY: A notice concerning a proposed Bureau of Land Management withdrawal was published on August 6, 1999. This notice corrects the legal description in two places.

FOR FURTHER INFORMATION CONTACT: Cliff Yardley, BLM Arizona State Office, 602–417–9437.

Correction

1. In the **Federal Register** publication of August 6, 1999, page 42959 (third column), Sec. 17 under T. 11 N., R. 2 E., is corrected to read:

Sec. 17, W½W½E½;

2. In the **Federal Register** publication of August 6, 1999, page 42960 (first column), Sec. 19 under T. 10 N., R. 3 E., is corrected to read:

Sec. 19, lots 1 to 7, inclusive, NE¼, E½NW¼, NE¼SW¼, N½SE¼, and SE¼SE¼.

Dated: October 25, 1999.

Michael A. Ferguson,

Deputy State Director, Resources Division.

[FR Doc. 99–28835 Filed 11–3–99; 8:45 am]

BILLING CODE 4310–32–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–269–270 (Review) and 731–TA–311–317 and 379–380 (Review)]

Brass Sheet and Strip From Brazil, Canada, France, Germany, Italy, Japan, Korea, the Netherlands, and Sweden

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject five-year reviews.

EFFECTIVE DATE: October 29, 1999.

FOR FURTHER INFORMATION CONTACT: Jonathan Seiger (202–205–3183), Office of Investigations, U.S. International Trade Commission, 500 E Street S.W., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: Effective July 12, 1999, the Commission established a schedule for the conduct of the subject five-year reviews (64 FR 38688, July 19, 1999). On September 28, 1999, pursuant to its authority under 19 U.S.C. 1675(c)(5)(B), the Commission revised that schedule (64 FR 54352, October 6, 1999). The Commission has again determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B), and is hereby further revising its schedule.

The Commission's new schedule for the five-year reviews is as follows: the prehearing staff report will be placed in the nonpublic record on January 21, 2000; the deadline for filing prehearing briefs is February 1, 2000; requests to appear at the hearing must be filed with the Secretary to the Commission not later than February 2, 2000; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on February 7, 2000; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on February 10, 2000; the deadline for filing posthearing briefs is February 22, 2000; the Commission will make its final release of information on March 15, 2000; and final party comments are due on March 17, 2000.

For further information concerning these five-year reviews see the Commission's notices cited above and the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Authority: These five-year reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

Issued: October 29, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–28891 Filed 11–3–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–859 (Preliminary)]

Circular Seamless Stainless Steel Hollow Products From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731–TA–859 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of circular seamless stainless steel hollow products, including pipes, tubes, redraw hollows, and hollow bars, provided for in subheadings 7304.10.50, 7304.41.30, 7304.41.60, and 7304.49.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. § 1673a(c)(1)(B)), the Commission must

reach a preliminary determination in antidumping investigations in 45 days, or in this case by December 10, 1999. The Commission's views are due at the Department of Commerce within five business days thereafter, or by December 17, 1999.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: October 26, 1999.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187 or fruggles@usitc.gov), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on October 26, 1999, by Altx, Inc., Watervliet, NY; American Extruded Products Corp., Beaver Falls, PA; DMV Stainless USA, Inc., Houston, TX; Salem Tube, Inc., Greenville, PA; Sandvik, Steel Co., Scranton, PA; International Extruded Products LLC d/b/a Wyman-Gordon Energy Products—IXP Buffalo, Buffalo, NY; and the United Steelworkers of America, AFL–CIO/CLC, Pittsburgh, PA.

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. § 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on November 16, 1999, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Fred Ruggles (202–205–3187) not later than November 12, 1999, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before November 19, 1999, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: October 29, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary .

[FR Doc. 99–28805 Filed 11–3–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–423]

In the Matter of Certain Conductive Coated Abrasives; Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation on the Basis of a Consent Order; Issuance of Consent Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ's) initial determination (ID) granting the joint motion of complainant Minnesota Mining & Manufacturing Co. and respondents KWH Mirka Ab Oy of Finland, and Mirka Abrasives, Inc. to terminate the above-captioned investigation based on a consent order.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3104. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on June 28, 1999, based on a complaint filed by Minnesota Mining & Manufacturing Co. (''3M'') alleging violations of section 337 in the importation and sale of certain coated abrasive articles such as sandpaper by reason of infringement of claims 1, 15, 17, or 36 of U.S. Letters Patent 5,108,463, as amended by Reexamination Certificate B1 5,108,463 (the '463 patent). The '463 patent is

owned by 3M. 64 *FR* 34678 (June 28, 1999). Two respondents were named, KWH Mirka Ab Oy of Finland, and Mirka Abrasives, Inc. of Twinsburg, Ohio (collectively, Mirka).

On July 29, 1999, Mirka and 3M filed a joint motion to terminate the investigation based on a proposed consent order. The joint motion contained a stipulation and proposed consent order. On August 11, 1999, the Commission investigative attorney filed a response in support of the joint motion. On September 24, 1999, the ALJ issued an ID (Order No. 2) terminating the investigation based on the proposed consent orders. No petition for review was filed.

Copies of the ALJ's ID, the consent order, and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202–205–2000.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, and Commission rule 210.42, 19 C.F.R. § 210.42.

Issued: October 27, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–28802 Filed 11–3–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–125–126 (Review)]

Potassium Permanganate From China and Spain

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission determines,[2] pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on potassium permanganate from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. The Commission further determines that revocation of the antidumping duty order on potassium permanganate from Spain would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on November 2, 1998 (63 FR 58765) and determined on February 4, 1999 that it would conduct full reviews (64 FR 9177, February 24, 1999). Notice of the scheduling of the Commission's reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on March 8, 1999 (64 FR 11041). The hearing was held in Washington, DC, on August 31, 1999, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on October 27, 1999. The views of the Commission are contained in USITC Publication 3245 (October 1999), entitled Potassium Permanganate from China and Spain: Investigations Nos. 731–TA–125–126 (Review).

Issued: October 29, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–28804 Filed 11–3–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–339 and 340–A–I (Review)]

Solid Urea From Armenia, Belarus, Estonia, Lithuania, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan

Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)), that revocation of the antidumping duty order on solid urea from Armenia [2] would not be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time and that revocation of the antidumping duty orders on solid urea from Belarus, [3] Estonia, [4] Lithuania,[4] Romania,[4] Russia, Tajikistan,[4] Turkmenistan,[3] Ukraine, and Uzbekistan 3 would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on March 1, 1999 (64 FR 10020, March 1, 1999) and determined on June 3, 1999 that it would conduct expedited reviews (64 FR 31610, June 11, 1999).

The Commission transmitted its determinations in these reviews to the Secretary of Commerce on October 27, 1999. The views of the Commission are contained in USITC Publication 3248 (October 1999), entitled Solid Urea from Armenia, Belarus, Estonia, Lithuania, Romania, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan: Investigations Nos. 731–TA–339 and 340–A-I (Review).

Issued: October 28, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–28803 Filed 11–3–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–860 (Preliminary)]

Tin- and Chromium-Coated Steel Sheet From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731–TA–860 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Commissioner Carol T. Crawford dissenting.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(f)).

[2] Chairman Bragg and Commissioner Koplan dissenting.

[3] Commissioners Crawford and Askey dissenting.

[4] Commissioners Crawford, Hillman, and Askey dissenting.

industry in the United States is materially retarded, by reason of imports from Japan of tin- and chromium-coated steel sheet, provided for in subheadings 7210.11.00, 7210.12.00, 7210.50.00, 7212.10.00, 7212.50.00, 7225.99.00, and 7226.99.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by December 13, 1999. The Commission's views are due at the Department of Commerce within five business days thereafter, or by December 20, 1999.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: October 28, 1999.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202–205–3185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on October 28, 1999, by Weirton Steel Corp., Weirton, WV; the United Steelworkers of America (USW), AFL–CIO; and the Independent Steelworkers Union (ISU).

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. § 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference.—The Commission's Director of Operations has scheduled a conference in connection with this investigation for Thursday, November 18, 1999, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202–205–3185) not later than November 16 to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before November 23, 1999, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: October 29, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–28892 Filed 11–3–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENMT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated June 22, 1999, and published in the **Federal Register** on June 29, 1999, (64 FR 3425), Chiragene, Inc., 7 Powder Horn Drive, Warren, New Jersey 07059, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
N-Ethylamphetamine (1475)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxyamphetamine (7400).	I
4-Methoxyamphetamine (7411)	I
Amphetamine (1100)	II
Methylphenidate (1724)	II

The firm plans to manufacture the listed controlled substance to supply their customers.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 832(a) and determined that the registration of Chiragene, Inc. to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated Chiragene, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's

compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: October 25, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Controls, Drug Enforcement Administration.

[FR Doc. 99–28866 Filed 11–3–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated August 14, 1998, and published in the **Federal Register** on August 25, 1998 (63 FR 45259), the National Center for Development of Natural Products, The University of Mississippi, 135 Cox Waller Comlex, University, Mississippi 38677, made application to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the controlled substances listed below:

Drug	Schedule
Marihuana	I
Tetrahydrocannabinols	I

Two registered bulk manufacturers of tetrahydrocannabinols filed written comments requesting that DEA ascertain whether the National Center for Development of Natural Products' application to bulk manufacturer tetrahydrocannabinols met the public interest factors of the Controlled Substances Act before registration is granted. Review of the APA's definitions of license and licensing reveals that the granting or denial of a manufacturer's registration is a licensing action, not a rulemaking. Courts have frequently distinguished between agency licensing actions and rulemaking proceedings. *See, e.g. Gateway Transp. Co.* v. *United States,* 173 F. Supp. 822, 828 (D.C. Wis. 1959); *Underwater Exotics, Ltd.* v. *Secretary of the Interior,* 1994 U.S. Dist. LEXIS 2262 (1994). Courts have interpreted agency action relating to licensing as not falling within the APA's rulemaking provisions.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of the National Center for Development of Natural Products to manufacture the listed products is consistent with the public interest at this time. This determination was based on, among things, DEA's on-site investigation of the National Center for Development of Natural Products. The investigation included inspection and testing of the applicant's physical security systems, verification of the applicant's qualifications and experience, verification of the applicants compliance with state and local laws, and review of the firm's background and history. DEA has further determined that the registration will be consistent with United States obligations under international treaties. Therefore, pursuant to 21 U.S.C. § 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Division Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: October 20, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–28867 Filed 11–3–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated October 1, 1998, and published in the **Federal Register** on October 9, 1998, (63 FR 54492), Norac Company, Inc., 405 S. Motor Avenue, Azusa, California 91792, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of tetrahydrocannabinols (7370), a basic class of controlled substance listed in Schedule I.

The firm plans to manufacture tetrahydrocannabinols (THC) for use in treatment of AIDS wasting syndrome and as an antiemetic.

DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Norac Company, Inc. to manufacture tetrahydrocannabinols is consistent with the public interest at this time. DEA has investigated Norac Company, Inc. on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: October 22, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–28868 Filed 11–3–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated April 26, 1999, and published in the **Federal Register** on May 10, 1999, (64 FR 25080), Sigma Aldrich Research Biochemicals, Inc., Attn: Richard Miliius, 1–3 Strathmore Road, Natick, Massachusetts 01760, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Aminorex (1585)	I
Alpha-Ethyltryptamine (7249)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
4-Bromo-2, 5-dimethoxyamphetamine (7391)	I

Drug	Schedule
4-Bromo-2, 5-dimethoxyphenethylamine (7392)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxyamphetamine (7400)	I
N-Hydroxy-3,4-methylenedioxyamphetamine (7402)	I
3,4-Methylenedioxymethamphetamine (7405)	I
1-[1-(2-Thienyl) cyclohexyl] piperidine (7470)	I
Heroin (9200)	I
Psilocyn (7438)	I
Normorphine (9313)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Diprenorphine (9058)	II
Benzoylecgonine (9180)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Metzaocine (9240)	II
Methadone (9250)	II
Morphine (9300)	II
Thebaine (9333)	II
Levo-alphacetylmethadol (9648)	II
Fentanyl (9801)	II

The firm plans to manufacture the listed controlled substances for laboratory reference standards and neurochemicals.

DEA has considered the factors in Title 21, United States Code, Section 823 (a) and determined that the registration of Sigma-Aldrich Research Biochemicals to manufacture the listed controlled substances is consistent with the public interest at this time. DEA has investigated the firm on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823 and 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator, Office of Diversion Control, hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: October 20, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–28869 Filed 11–3–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

October 8, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 Public Law 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Ira Mills ((202) 219–5096 ext. 143) or by E-Mail to Mills-Ira@dol.gov.

Comment should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Office for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment Standards Administration.

Title: Representative Fee Request.

OMB Number: 1215–0078.

Frequency: On occasion.

Affected Public: Businesses or other for-profit; Individuals or households.

Number of Respondents: 13,720.

Estimated Time Per Respondent: 30–90 minutes

Total Burden Hours: 9,860.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): $17,210.

Description: The Office of Federal Workers' Compensation (OWCP) reviews requests for approval of a fee for services provided to OWCP claimants/beneficiaries submitted by attorneys/representatives.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–28797 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

October 28, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Ira Mills({202} 219–5096 ext. 143) or by E-Mail to Mills-Ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ({202} 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration.

Title: 29 CFR Part 1904 Recording and Reporting Occupational Inquiries and Illnesses.

OMB Number: 1218–0176.

Frequency: Recordkeeping.

Affected Public: Business or other for-profit; Not-for-profit institutions; Farms; State, Local or Tribal Government.

Number of Respondents: 1,086,264.

Estimated Time Per Respondent: 1.60 hours.

Total Burden Hours: 1,739,157.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: The OSHA No. 200, Log and Summary; the OSHA No. 101, Supplementary Record; and the recordkeeping guidelines provide employers with the means and specific instructions needed to maintain records of work-related injuries and illnesses. Response to this collection of information is mandatory, as specified in 29 CFR Part 1904. Data recorded under this information collection is collected in two major nationwide surveys. One survey is conducted by OSHA and the other by the Bureau of Labor Statistics (BLS). The information generated from these surveys is used by OSHA for targeting its programmed inspections. OSHA is also using these data for performance measurement purposes in compliance with the Government Performance and Results Act. The BLS uses the data for producing national statistics on occupational injuries and illnesses.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–28798 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,240 and NAFTA–3145]

Consolidated Papers, Inc., Niagara Division, Niagara, WI; Notice of Determinations on Reconsideration

On September 10, 1999, the Department issued an Affirmative Determination Regarding Application for Reconsideration of Trade Adjustment Assistance (TAA) and North American Free Trade Agreement-Transitional Adjustment Assistance (NAFTA–TAA) for the workers and former workers of the subject firm. The notice was published in the **Federal Register** on September 24, 1999 (64 FR 51790).

Investigation findings show that workers of the subject firm are primarily engaged in the production of coated groundwood printing papers. The workers were denied TAA because the ''contributed importantly'' test of the Group Eligibility Requirements of the Trade Act of 1974 as amended, was not met. The workers were denied NAFTA–TAA based on the finding that there was no shift in production from the workers' firm to Mexico or Canada. Other findings showed that there were no company or customer imports of coated groundwood paper from Mexico or Canada.

The company submitted a list of additional declining customers. The Department surveyed these customers regarding their purchases of coated groundwood printing paper during the time period relevant to the investigation. Results of the survey show that a major declining customer increased reliance on imports of coated groundwood paper while reducing purchases of like and directly competitive articles from Consolidated Paper's Niagara Division, in Niagara, Wisconsin. The survey respondents reported a negligible amount of import purchases of coated groundwood paper from Mexico and Canada.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that the workers of Consolidated Papers, Inc., Niagara Division, Niagara, Wisconsin were adversely affected by increased imports from countries other than Mexico or Canada of articles like or directly competitive with coated groundwood printing paper produced at the subject firm.

All workers of Consolidated Papers, Inc., Niagara Division, Niagara, Wisconsin engaged in employment related to the production of coated groundwood printing paper, who became totally or partially separated from employment on or after April 29, 1998 through two years from the date of this issuance are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974;'' and I further determine that ''All workers of Consolidated Papers, Inc., Niagara Division, Niagara, Wisconsin engaged in employment related to the production of coated groundwood printing paper are denied eligibility to apply for NAFTA–TAA Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 28th day of October 1999.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28908 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of October, 1999.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA–W–36,529; Steward Cable Repair, Inc., Midland, TX
TA–W–36,343; California Webbing Industries, Inc., Los Angeles, CA
TA–W–36,775; Hart Metals, Inc., Tamagua, PA
TA–W–36,385; Chicago Miniature Lamps, Wynnewood, OK
TA–W–36,623; Interplast Universal Industries, Lodi, NJ
TA–W–36,655; Akre, Inc., Oldtown, ID
TA–W–36,648; Hoke, Inc., Cresskill, NJ
TA–W–36,664; Hayes Albion, Ripley, TN
TA–W–36,472; International Paper, Decorative Products Div., Spring Hope, NC

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

TA–W–36,604; Total Minatome Corp., Houston, TX
TA–W–36,880; Compass Group USA, Duncan, OK
TA–W–36,902; Scovill Fasteners, Inc., El Paso, TX
TA–W–36,855; Doyon Universal Services, Inc., Anchorage, AK
TA–W–36,811; John E. Fox, Inc., El Paso, TX
TA–W–36,743; Universal Music & Video Distribution, Inc., Illinois Return Processing Center, Pinekneyville, IL
TA–W–36,856; Levingston Engineers, Inc., Sulphur, LA
TA–W–36,860; Dos Cuervos Enterprises, El Paso Inspection, Gulfport, MS
TA–W–36,677; Clark Oil Co., Ada, OK
TA–W–36,757; Duro Industries, New York, NY
TA–W–36,882; Robinson Knife Co., Buffalo, NY
TA–W–36,836; Tricon Geophysical, Inc., Denver, CO
TA–W–36,738; ALM Antillean Airline, Reservations Dept., Miami, FL
TA–W–36,695; Karina, Inc., Wayne, NJ
TA–W–36,881; Canteen Corp., Fayetteville, NC
TA–W–36,652; Stewart & Stevenson Power, Inc., Williston, ND

The workers firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA–W–36,649; Cabletron Systems, Ironton, OH
TA–W–36,831; Williamson Dickies Manufacturing Co., Plant #22, Eagle Pass, TX
TA–W–36,858; General Assembly Corp., El Paso, TX
TA–W–36,461; J.R. Simplot Co., Caldwell, ID
TA–W–36,390; Motorola Corp., Semiconductor Products Sector, Semiconductor Components Group, (SCG), Phoenix, AZ
TA–W–36,821; AMP, Inc., Polymer Processing Center, Glen Rock, PA
TA–W–36,637; Motorola Cellular Div., Libertyville, IL
TA–W–36,451; AMP, Inc., Quick Trun Shop, Winston-Salem, NC
TA–W–36,428; Skinner Engine Co., Erie, PA
TA–W–36,134; Huntsman, Woodbury, NJ
TA–W–36,908; Remington Products, Co. LLC, Milford, CT
TA–W–36,830; S & B Engineers & Constructors, LTD, Odessa, TX
TA–W–36,709; AMP, Inc., Printed Circuit Board (PCB), Div., Loganville West Plant, Building 143, Loganville, PA
TA–W–36,804; Key Manufacturing Co., Jasper, AL
TA–W–36,812; Salem Lumber Services, A Div. of Woodward & Dickerson, Salem, OR
TA–W–36,568; The Boeing Co., Commercial Aircraft Production, Long Beach, CA
TA–W–36,850; Ross Mould, Inc., Washington, PA
TA–W–36,824; Crouse-Hinds Div. of Cooper Industries, Syracuse, NY
TA–W–36,832; AMCO, Convertible Fabrics, Adrian, MI
TA–W–36,750; Anchor Service, Inc., Kilgore, TX
TA–W–36,708; Invensys Appliance Controls, New Stanton, PA
TA–W–36,361; Alta Gold Co., Griffin Mine, Ely, NV
TA–W–36,846; Louisiana Pacific Corp., Kelckikan Pulp Co., Annette Hemlock Sawmill, Mellakatta, AK
TA–W–36,843; Comptec, Inc., Custer WA

Increased imports did not contribute importantly to worker separations at the firm.

TA–W–36,667; Heinz Pet Products El Paso, TX

The investigation revealed that criteria (1) and criteria (2) have not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA–W–36,829; Milco Industries, Inc., Bloomsburg, PA

The investigation revealed that criteria (1) has not been met. A significant number or proportion of the workers did not become totally or partially separated from employment as required for certification.

TA–W–36,670; GE Lighting, Mattoon Lamp Plant, Mattoon, IL

The investigation revealed that criteria (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

A–W–37.837; Ricks Exploration, Oklahoma City, OK

The investigation revealed that criteria (2) and criteria (3) have not been met. Sales or production did not decline during the relevant period as required for certification. Increases of imports or articles like or directly competitive with articles produced by the firm or an appropriate subdivision have not contributed importantly to the separations or threat thereof, and the absolute decline in sales or production.

TA–W–36,280A; Eagle Ottawa Leather Co., Grand Haven, MI

The company made a business decision to shift production of finished

leather from Grand Haven, MI to facilities in Mexico, but products were not re-imported as tanned leather but as part of finished products containing tanned leather.

Affirmative Determination for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

TA–W–36,6862, A, B, C, & D; Aalfs Manufacturing, Inc., Spencer, IA, Sioux City, IA, LeMars, IA, Sheldon, IA and Yankton, SD: September 15, 1998.

TA–W–36,574; Ametek, Lamb Electric Div., Cambridge, OH: July 12, 1998.

TA–W–36,696; Kesu Systems & Service, Inc., Tempe, AZ: August 5, 1998.

TA–W–36,853; North-American Refractories Co., Curwensville, PA: September 7, 1998.

TA–W–36,689; Magliano Pants Co., Cincinnati, OH: July 30, 1998.

TA–W–36,786 EIEIO, Inc., Fall River, MA: August 14, 1998.

TA–W–36,186; International Electronic Research Corp., ACTS Co., Burbank, CA: April 23, 1998.

TA–W–36,835; Fleetwood Shirt Corp., Fleetwood, PA: September 1, 1998.

TA–W–36,628; Paramount Headwater, Inc., Bourbon, MO: July 20, 1998.

TA–W–36,280; Eagle Ottawa Leather Co., Milwaukee, WI: April 26, 1998.

TA–W–36,773; Eagle Geophysical, Inc., Houston, TX: July 19, 1998.

TA–W–36,785; Marion Mills, LLC, Marion, NC: August 19, 1998.

TA–W–36,266; Spenco Manufacturing, Inc., Glenville, WV: April 30, 1999.

TA–W–36,594; Brazos Sportswear, Inc., Batavia, OH: July 13, 1998.

TA–W–36,805; Uni-Tone Soles and Heels, Hanover, PA: August 24, 1998.

TA–W–36,626; Black Diamond, Sportswear, Inc., Barre, VT: July 19, 1998.

TA–W–36,810; Ikon Office of Solutions, Remanufacturing Div., Jefferson City MO: August 24, 1998.

TA–W–36,614; International Business Machines Corp. (IBM), Storage Systems Div., San Jose, CA: July 19, 1998.

TA–W–36,629; ASARCO, Inc., Mission Complex, Sahurarita, AZ: July 14, 1998.

TA–W–36,562, A,B, C & D; Baker Oil Tools, Odessa, TX, McCamey, TX, Hobbs, NM, Denver City, TX, Snyder, TX: July 19, 1998.

TA–W–36,634; Hirsch Speidel, Inc., Providence, RI: July 22, 1998.

TA–W–36,129; D & E Wood Products, Inc., Prineville, OR: April 20, 1998.

TA–W–36,814; Grand Rapids Diecast, Walker, MI: August 27, 1998.

TA–W–36,260; The Oilgear, Co., Longview, TX: May 24, 1998.

TA–W–36,691; Hirsch Industries, Formerly Steelworkers, Inc., Skokie, IL: July 29, 1998.

TA–W–36,906; Prewash & Pressing, Inc., a/k/a Prewash and Pressing Service, Inc., El Paso, TX: October 27, 1998.

TA–W–36,899; GKN Sinter Metals, Van Wert, OH: September 14, 1998.

TA–W–36,504; Galax Apparel Corp., Galax, VA: June 23, 1998.

TA–W–36,907; Electric Cord Sets, Inc., Angola, IN: September 16, 1998.

TA–W–36,660; Brake Parts, Inc., Amherst, NY: July 26, 1998.

TA–W–36,379; Ayers Manufacturing Co., Inc., Coward, SC: May 25, 1998.

TA–W–36,777; Candlewood Industries, Inc., Bayshore, NY: August 10, 1998.

TA–W–36,710; American Eagle Well Logging, Inc., Wichita Falls, TX: August 2, 1998.

TA–W–36,729; Garan, Inc., Adamsville, TN: August 6, 1998.

TA–W–36,904; Bass Energy, Inc., Breckenridge, TX: September 15, 1998.

TA–W–36,912; Ultramar Diamond Shamrock, Total Petroleum Products Div. (TPI), Alma, MI: September 23, 1998.

TA–W–36,685; A, B, C; AMP, Inc., Lowell, NC, Charlotte, NC, Gastonia, NC, Rock Hill, SC: July 27, 1998.

TA–W–36,686; CTI Communications, Formerly Valor Enterprises, Piqua, OH: August 3, 1998.

TA–W–36,779; C & D Manufacturing, Madisonville, TN: August 9, 1998.

TA–W–36,878; Kanthal Globar, Niagara Falls, NY: September 14, 1998.

TA–W–36,422; Warnaco, Inc., Stratford, CT: May 21, 1998.

TA–W–36,791; MK Contract Services, Inc., El Paso, TX: August 19, 1998.

TA–W–36,774; Plews/Edelman, Div. of Stant/Schrader Group, Granite Falls, MN: August 10, 1998.

TA–W–36,834; Takata Restraint Systems, Inc., Greenwood, MS: August 25, 1998.

TA–W–36,366; Southern Lady Sportswear, Killen, AL: May 24, 1998.

TA–W–36,752; Veritas DGC Land, Inc., Houston, TX: July 10, 1998.

TA–W–36,642; General Instrument Corp., Low Volume Manufacturing Operations, Horsham, PA: July 21, 1998.

TA–W–36,593; Shaer Shoe, Franklin Shoe Div., Farmington, ME: July 12, 1998.

TA–W–36,887; Unitog Co (Cintas), Warsaw, MO: September 9, 1998.

TA–W–36,744; Financial Systems, Div. of Datacard Corp, Minnetonka, MN: August 11, 1998.

TA–W–36,877; Kreations, Inc., Inc., Hallandale, FL: September 9, 1998.

TA–W–36,941; The Mexmil Co., Everett Facility, Everett, WA: September 29, 1998.

TA–W–36,935; McElveen Mfg. Co., Inc., New Zion, SC: September 29, 1998.

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103–182) concerning transitional adjustment assistant hereinafter called (NAFTA–TAA) and in accordance with Section 250(a) Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of October, 1999.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the worker's firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production , or both, of such firms or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

Negative Determination NAFTA–TAA

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separation. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

NAFTA–TAA–03336; Hayes Albion Reply, TN
NAFTA–TAA–03445; Grant City Manufacturer, Grant City, MO
NAFTA–TAA–03320 & A; Paramount Headwear, Inc., Bourdon, MO and Dixon, MO
NAFTA–TAA–03448; Kerry McGee Chemical, L.L.C., Forest Product Div., The Dalles, OR
NAFTA–TAA–03135; International Electronic Research Corp., A CTS Co., Burbank, CA
NAFTA–TAA–03208; Alta Gold Co., Griffin Mine, Ely, NV
NAFTA–TAA–03434; TRW, Vehicle Safety Systems, Inc., Washington, MI
NAFTA–TAA–03365; Wellman, Inc., Wool Div., Johnsonsville, SC
NAFTA–TAA–03387; Garan, Inc., Adamsville, TN
NAFTA–TAA–03438; Ross Mould, Inc., Washington, PA
NAFTA–TAA–03453; Williamson Dickie Manufacturing Co., Plant #22, Eagle Pass, TX
NAFTA–TAA–03260; Parker Hannifin Corp., Parkflex Div., Mooresville, NC
NAFTA–TAA–03427; Fleetwood Shirt Corp., Fleetwood, PA
NAFTA–TAA–03429; Crouse-Hinds Div., of Cooper Industries, Syracuse, NY
NAFTA–TAA–03269; International Paper, Decorative Products Div., Spring Hope, NC
NAFTA–TAA–03310; Shaer Shoe, Inc., Franklin Shoe Div., Farmington, ME
NAFTA–TAA–03509; Penn Mould Industries, Inc., Washington, PA

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

NAFTA–TAA–0373; Coupon Processing Associates, Inc., El Paso, TX

The investigation revealed that the workers of the subject firm did not product an article within the meaning of Section 250(a) of the Trade Act, as amended.

NAFTA–TAA–03342; Heinz Pet Products, El Paso, TX

The investigation revealed that criteria (1) and (2) have not been met. A significant number or proportion of the workers in such workers' firm or an appropriate subdivision (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—Sales or production, or both of such firm or subdivision have decreased absolutely.

Affirmative Determinations NAFTA–TAA

NAFTA–TAA–03374; High View Church Farm, Inc., Greenhouse Div., Lempster, NH: August 3, 1998.
NAFTA–TAA–03437; North American Refractories, Co., Curwensville, PA: September 7, 1998.
NAFTA–TAA–03460; Prewash & Pressing Service, Inc., El Paso, TX: October 27, 1999.
NAFTA–TAA–03359; Hot Property, Inc., d/b/a Lorraine Wardy Enterprises, Opal, El Paso, TX: August 4, 1998.
NAFTA–TAA–03303; Motoral, Inc., Personal Communications Sector, Paging Products Group, Boynton Beach, FL: April 5, 1998.
NAFTA–TAA–03330; A, B, & C; AMP, Inc., Lowell, NC, Charlotte, NC, Gastonia, NC, Rock Hill, SC: July 27, 1998.
NAFTA–TAA–03291 & A; Eagle Ottawa Leather Co., Milwaukee, WI, Grand Haven, MI: May 20, 1999.
NAFTA–TAA–03443; Ametek, Inc., Lamb Electric Div., Cambridge, OH: July 13, 1998.
NAFTA–TAA–03369; CTI Communications, Formerly Valor Enterprises, Piqua, OH: September 22, 1998.
NAFTA–TAA–03439; General Assembly Corp., El Paso, TX: September 10, 1999.
NAFTA–TAA–03455; The Mexmil Co., Everett Facility, Everett, WA: September 13, 1998.
NAFTA–TAA–03223; Motorola Corp., Semiconductor Products Sector, Semiconductor Components Group (SCG), Phoenix, AR: May 31, 1998.
NAFTA–TAA–03442; Unitog Co. (Cintas), Warsaw, MO: September 9, 1998.
NAFTA–TAA–03435; Illinois Tool Works (ITW), Inc., Electronic Component Packaging Systems Div., Including Leased Workers of Dixie Staffing Services, Arlington, TX: September 7, 1998.
NAFTA–TAA–03482; Huffy Bicycle Co., Farmington, MO: September 29, 1998.
NAFTA–TAA–03495; Tultex Corp., Bastian Plant, Bastian, VA: September 26, 1998.
NAFTA–TAA–03490; Hewlett Packard, Commercial Hardcoy Support Div., Corvallis, OR: September 30, 1998.
NAFTA–TAA–03174; Unger Fabrik, LLC, Los Angeles, CA: May 3, 1998.

I hereby certify that the aforementioned determinations were issued during the month of October, 1999. Copies of these determinations are available for inspection in Room C–4318, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210 during normal business hours or will be mailed to person who write to the above address.

Dated: October 27, 1999.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28899 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,349]

Alliance Leathers, Inc., Johnstown, NY; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 7, 1999, in response to a worker petition which was filed on behalf of workers at Alliance Leathers, Inc., Johnstown, New York.

This case is being terminated because the information necessary to conduct the investigation is not available from the petitioner or company officials. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 19th day of October, 1999.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28903 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,925]

Border Apparel Laundry, Inc., El Paso, TX; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 12, 1999 in response to a worker petition which was filed on behalf of workers at Border Apparel Laundry, Incorporated, El Paso, Texas.

Two of the three petitioners were separated from the subject firm more than a year prior to the date of the petition. In Accordance with Section 223(b)(1) of the Trade Act of 1974, no certification may apply to any worker whose last total or partial separation occurred more than a year before the

date of the petition. Therefore, the petition is deemed invalid. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 19th day of October, 1999.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28896 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,698]

Contract Apparel, Inc., El Paso, TX; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on August 16, 1999, in response to a petition filed on behalf of workers at Contract Apparel, Inc., El Paso, Texas.

On October 5, 1999, the petitioner requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 6th day of October 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28901 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,867]

Eagle Ottawa, Milwaukee, WI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 27, 1999 in response to a worker petition which was filed on behalf of workers at Eagle Ottawa, Milwaukee, Wisconsin.

The petitioning group of workers are covered under an existing Trade Adjustment Assistance certification (TA–W–36,280). Consequently, further investigation in this case would service no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 15th day of October 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28904 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,550]

FWA Drilling Company, Inc. a/k/a JSM & Associate A/K/A UTI Drilling, Midland, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 29, 1998, applicable to workers of FWA Drilling Company, Inc., Midland, Texas. This notice was published in the **Federal Register** on August 28, 1998 (63 FR 46073).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Findings show that some workers separated from employment at FWA Drilling Company had their wages reported under two separate unemployment insurance (UI) tax accounts, JSM & Associates and UTI Drilling, Midland, Texas. The workers are engaged in providing contract drilling services in the crude oil and natural gas industry.

The intent of the Department's certification is to include all workers of FWA Drilling Company, Inc. who were adversely affected by increased imports. Accordingly, the Department is amending the certification to reflect this matter.

The amended notice applicable to TA–W–34,550 is hereby issued as follows:

All workers of FWA Drilling Company, Inc., also known as JSM & Associates and also known as UTI Drilling, Midland, Texas (TA–W–34,550) who became totally or partially separated from employment on or after April 18, 1997 through July 29, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 27th day of October, 1999.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28907 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,056 et al.]

Halliburton Energy Services, Subsidiary of Dresser Industries, Inc. Wholly Owned by Halliburton Company, Headquartered in Houston, TX; Amended Certification Regarding Eligibility To Apply to Worker Adjustment Assistance

Operating at other locations in the following States:

TA–W–35,056A ALASKA
TA–W–35,056B ALABAMA
TA–W–35,056C ARKANSAS
TA–W–35,056D CALIFORNIA
TA–W–35,056E FLORIDA
TA–W–35,056F ILLINOIS
TA–W–35,056G INDIANA
TA–W–35,056H KANSAS
TA–W–35,056I LOUISIANA
TA–W–35,056J MICHIGAN
TA–W–35,056K MISSISSIPPI
TA–W–35,056L NEW MEXICO
TA–W–35,056M NORTH DAKOTA
TA–W–35,056N OHIO
TA–W–35,056O OKLAHOMA
TA–W–35,056P PENNSYLVANIA
TA–W–35,056Q TEXAS
TA–W–35,056R VIRGINIA
TA–W–35,056S WYOMING
TA–W–35,056T COLORADO
TA–W–35,056U MONTANA
TA–W–35,056V UTAH
TA–W–35,056W WEST VIRGINIA

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on October 28, 1998 applicable to workers of Halliburton Energy Services headquartered in Houston, Texas and operating at various locations in the above cited states. The notice was published in the **Federal Register** on December 4, 1998 (63 FR 67140).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to exploration and drilling for unaffiliated firms in the oil industry. New findings show that in September, 1998 Halliburton Energy Services merged with Dresser Industries, Inc. and became known as Halliburton Energy Services, Inc., a subsidiary of Dresser Industries, Inc., wholly owned by Halliburton Company. Information provided by the State also shows that some workers separated from employment at Halliburton Energy Services had their wages reported under two separate unemployment insurance (UI) tax accounts. Halliburton Energy Services, Inc. and Dresser Industries,

Inc., headquartered in Houston, Texas and operating at other locations in the above cited states.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–35,056 is hereby issued as follows:

All workers of Halliburton Energy Services, a subsidiary of Dresser Industries, Inc., wholly owned by Halliburton Company, headquartered in Houston, Texas (TA–W–35,056) and operating at other locations in the States listed below who became totally or partially separated from employment on or after September 4, 1997 through October 28, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974:

TA–W–35,056A ALASKA
TA–W–35,056B ALABAMA
TA–W–35,056C ARKANSAS
TA–W–35,056D CALIFORNIA
TA–W–35,056E FLORIDA
TA–W–35,056F ILLINOIS
TA–W–35,056G INDIANA
TA–W–35,056H KANSAS
TA–W–35,056I LOUISIANA
TA–W–35,056J MICHIGAN
TA–W–35,056K MISSISSIPPI
TA–W–35,056L NEW MEXICO
TA–W–35,056M NORTH DAKOTA
TA–W–35,056N OHIO
TA–W–35,056O OKLAHOMA
TA–W–35,056P PENNSYLVANIA
TA–W–35,056Q TEXAS
TA–W–35,056R VIRGINIA
TA–W–35,056S WYOMING
TA–W–35,056T COLORADO
TA–W–35,056U MONTANA
TA–W–35,056V UTAH
TA–W–35,056W WEST VIRGINIA.

Signed at Washington, D.C. this 18th day of October, 1999.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28911 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,414]

Harrison Alloys, Incorporated Harrison, NJ; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on September 20, 1999, applicable to workers of Harrison Alloys, Incorporated located in Harrison, New Jersey. The notice was published in the **Federal Register** on October 14, 1999 (64 FR 55751).

At the request of the petitioner, the Department reviewed the certification for workers of the subject firm. The petitioner and State agency provided information showing that the date of the petition used to establish the impact date for the worker group was May 5, 1999, not June 3, 1999. Therefore, the Department is amending the certification to reflect an impact date of May 5, 1998, one year prior to the date of the petition.

The amended notice applicable to TA–W–36,414 is hereby issued as follows:

All workers of Harrison Alloys, Incorporated, Harrison, New Jersey, who became totally or partially separated from employment on or after May 5, 1998 through September 20, 2001, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 22nd day of October 1999.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28898 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,936]

King Manufacturing Company, Incorporated, Corinth, MS; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 12, 1999 in response to a worker petition which was filed on behalf of all workers at King Manufacturing Company, Incorporated, located in Corinth, Mississippi (TA–W–36,936).

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 27th day of October 1999.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28913 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,103, TA–W–36,103A]

Lincoln Automotive Company Including Leased Workers of Staffmark and Manpower Jonesboro, AR, Lincoln Automotive Company, St. Louis, MO; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on July 14, 1999, applicable to all workers of Lincoln Automotive Company, including leased workers of Staffmark and Manpower, Jonesboro, Arkansas. The notice was published in the **Federal Register** on August 11, 1999 (64 FR 43724).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations occurred at the St. Louis, Missouri location of Lincoln Automotive Company due to its closing in October, 1999. The St. Louis, Missouri location was the headquarters office, where workers provided sales, marketing and customer service to support the production of lifting equipment, lubrication tools and equipment, and miscellaneous parts and equipment for the automotive aftermarket at the Jonesboro, Arkansas facility of Lincoln Automotive Company.

Accordingly, the Department is amending the certification to cover workers at Lincoln Automotive Company, St. Louis, Missouri.

The intent of the Department's certification is to include all workers of Lincoln Automotive Company who were adversely affected by increased imports.

The amended notice applicable to TA–W–36,103 is hereby issued as follows:

All workers of Lincoln Automotive Company including leased workers of Staffmark and Manpower, Jonesboro, Arkansas (TA–W–36,103) and all workers of Lincoln Automotive Company, St. Louis, Missouri (TA–W–36,103A) who became totally or partially separated from employment on or after April 6, 1998 through July 14, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington DC this 18th day of October, 1998.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28894 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,307]

Little Tikes Company, Shippensburg, PA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Little Tikes Company, Shippensburg, Pennsylvania. The application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–36,307; Little Tikes Company, Shippensburg, Pennsylvania (October 22, 1999)

Signed at Washington, D.C. this 27th day of October, 1999.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28897 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,746]

The Mark Thompson Company Graham, TX; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 23, 1999 in response to a worker petition which was filed on August 10, 1999 on behalf of workers at The Mark Thompson Company, Graham, Texas.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 6th day of October, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28902 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,526 and TA–W–36,526A]

PennzEnergy Exploration & Production L.L.C., Currently Known as Devon Energy, Formerly Known as Pennzoil Exploration and Production Company, Houston, and Midland, Texas; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on August 3, 1999 applicable to workers of PennzEnergy Exploration & Production L.L.C., formerly known as Pennzoil Exploration & Production Company, Houston, Texas. The notice was published in the **Federal Register** on September 29, 1999 (64 FR 52540).

At the request of the petitioners, the Department reviewed the certification for workers of the subject firm. New findings show that in August, 1999 PennzEnergy Exploration & Production merged with Devon Energy and is currently known as Devon Energy. Findings also show that worker separations occurred at the Midland, Texas location of PennzEnergy Exploration and Production. The workers are engaged in employment related to the production of crude oil and natural gas and provided office and management services.

Accordingly, the Department is amending the certification to correctly identify the new title name to read ''PennzEnergy Exploration & Production L.L.C., currently known as Devon Energy, formerly known as Pennzoil Exploration and Production Company'', Houston, Texas and to cover the workers at the subject firm's Midland, Texas location.

The intent of the Department's certification is to include all workers of PennzEnergy Exploration & Production L.L.C. adversely affected by increased imports.

The amended notice applicable to TA–W–36,526 is hereby issued as follows:

All workers of PennzEnergy Exploration & Production L.L.C., currently known as Devon Energy, formerly known as Pennzoil Exploration and Production Company, Houston, Texas (TA–W–36,526) and Midland, Texas (TA–W–36,526A) who became totally or partially separated from employment on or after June 22, 1998 through August 3, 2001 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974:

Signed at Washington, D.C. this 26th day of October, 1999.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28910 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–34,991]

Sappi Fine Papers North America, Inc., Including Leased Workers of Springborn Staffing Services, Westbrook, ME; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 2, 1998, applicable to workers of Sappi Fine Papers North America, Inc. located in Westbrook, Maine. The notice was published in the **Federal Register** on December 23, 1998 (63 FR 71165).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the company shows that some employees of Sappi Fine Papers were leased from Springborn Staffing Services to provide administrative support function services for the production of coated graphic freesheet and specialty paper at the Westbrook, Maine facility. Worker separations occurred at Springborn Staffing Services as a result of worker separations at Sappi Fine Papers North America.

Based on these findings, the Department is amending the certification to include workers of Springborn Staffing Services leased to Sappi Fine Papers North America, Inc., Westbook, Maine.

The intent of the Department's certification is to include all workers of Sappi Fine Papers North America, Inc. adversely affected by imports.

The amended notice applicable to TA–W–34,991 is hereby issued as follows:

All workers of Sappi Fine Papers North America, Inc., Westbrook, Maine and leased workers of Springborn Staffing Services, Westbrook, Maine engaged in employment related to administrative support function services for the production of coated graphic freesheet and specialty paper for Sappi Fine Papers North America, Inc., Westbrook, Maine who became totally or partially separated from employment on or after September 9, 1997 through December 2, 2000 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 26th day of October, 1999.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28909 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–35,463 et al]

Schlumberger Technology Corporation, Schlumberger Oilfield Services; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 26, 1999, applicable to all workers of Schlumberger Oilfield Services, a/k/a Dowell Schlumberger and a/k/a Anadrill Schlumberger, headquartered in Sugarland, Texas. The notice was published in the **Federal Register** on February 25, 1999 (64 FR 9354). The certification was subsequently amended to reflect other operating names under which the workers wages were reported.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information provided by the State shows that some workers separated from employment at Schlumberger Technology Corporation, Schlumberger Oilfield Services had their wages reported under three separate unemployment insurance (UI) tax accounts, Camco Industries, International Chandlers and Coastal Management operating at various locations in the above cited states. The workers provide oilfield and gas drilling and exploration services, as well as related support and warehouse duties.

The intent of the Department's certification is to include all workers of Schlumberger Oilfield Services, a/k/a Dowell Schlumberger and a/k/a Anadrill Schlumberger adversely affected by imports.

Accordingly, the Department is amending the certification to properly reflect this matter.

The amended notice applicable to TA–W–35,463, TA–W–35,060, TA–W–35,144 and TA–W–35,145 is hereby issued as follows:

All workers of Schlumberger Technology Corporation, Schlumberger Oilfield services, a/k/a Dowell Schlumberger, a/k/a Anadrill Schlumberger, a/k/a Geco-Prakla, a/k/a IPM, a/k/a Product Centers, a/k/a GeoQuest, a/k/a Sedco-Forex, a/k/a Wireline, a/k/a Shared Services, a/k/a Camco Industries, a/k/a International Chandlers, and a/k/a Coastal Management, headquartered in Sugarland, Texas (TA–W–35,463) and operating at various locations in the following States cited below:

TEXAS TA–W–35,463A
WYOMING TA–W–35,463B
CALIFORNIA TA–W–35,463C
ALASKA TA–W–35,463D
COLORADO TA–35,463E
ARKANSAS TA–W–35,463F
ALABAMA TA–W–35,463G
NORTH DAKOTA TA–W–35,463H
WEST VIRGINIA TA–W–35,463I
ILLINOIS TA–W–35,463J
KANSAS TA–W–35,463K
MICHIGAN TA–W–35,463L
MISSISSIPPI TA–W–35,463M
UTAH TA–W–35,463N
VIRGINIA TA–W–35,463O
NEW JERSEY TA–W–35,463P
PENNSYLVANIA TA–W–35,463Q

who became totally or partially separated from employment on or after December 21, 1997 through January 26, 2001; all workers located in Roswell, New Mexico (TA–W–35,060) and operating at various locations in the State of New Mexico (TA–W–35,060A) who became totally or partially separated from employment on or after September 15, 1997 through January 26, 2001; all workers located in Youngsville, Louisiana (TA–W–35,144) and operating at various locations in the State of Louisiana (TA–W–35,144A) who became totally or partially separated from employment on or after October 13, 1997 through January 26, 2001; and all workers located in Duncan, Oklahoma (TA–W–35,145) and operating at various locations in the state of Oklahoma (TA–W–35,145A) who became totally or partially separated from employment on or after October 1, 1997 through January 26, 2001, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 26th day of October, 1999.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28912 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–36,911]

Texaco US Production West USA, Midland, TX; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 30, 1999 in response to a worker petition which was filed on behalf of workers at Texaco US Production West USA, Midland, Texas.

The investigation revealed that an active certification covering the petitioning group of workers remains in effect (TA–W–35,792). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C. this 7th day of October, 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28905 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–32–M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address show below, not later than November 15, 1999.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 15, 1999.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210.

Signed at Washington, DC this 12th day of October, 1999.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

APPENDIX

Petitions Instituted On 10/12/1999

TA–W	Subject firm (petitioners)	Location	Date of petition	Product(s)
36,915	Voith Sulzer Papertech (Wkrs)	Monroe, OH	09/27/1999	Paper Producing Machines.
36,916	General Electric (IUE)	Tuscon, AZ	09/30/1999	Copper Mining Equipment.
36,917	G.H. Bass Caribbean (Wkrs)	Manati, PR	10/01/1999	Shoes—Bass.
36,918	Kimberly Clark (Co.)	Munising, MI	09/16/1999	Abrasive Backing Paper.
36,919	Huffy Corp., Bicycle Div (Wkrs)	Farmington, MO	09/29/1999	Bicycles.
36,920	CMT Industries (Wkrs)	El Paso, TX	09/21/1999	Ladies' Blazers, Pants & Skirts.
36,921	William Carter Co. (Wkrs)	Barnesville, GA	09/24/1999	Cloth for Baby Garments.
36,922	West Coast Circuits (Co.)	Watsonville, CA	09/23/1999	Circuit Boards.
36,923	Converter Concepts, Inc (Wkrs)	Pardeeville, WI	09/24/1999	Switching Power Supplies.
36,924	FCI Electronics (Co.)	Hazleton, PA	09/27/1999	Cable Assemblies.
36,925	Border Apparel Laundry (Wkrs)	El Paso, TX	09/15/1999	Launder Jeans.
36,926	Standard Motors Products (Wkrs)	Dyersburg, TN	09/21/1999	Automotive Temperature Control Parts.
36,927	MBU, Inc (UNITE)	New York, NY	09/21/1999	Coats, Suits and Jackets.
36,928	Operators and Consulting (Co.)	Lafayette, LA	09/09/1999	Consulting Service.
36,929	Framatome Connectors (Co.)	Boyne City, MI	09/22/1999	Electrical Terminals & Connectors.
36,930	Houze Glass Co. (Wkrs)	Point Marion, PA	09/09/1999	Silk Screen Printing.
36,931	Highland Forest (Wkrs)	Sweethome, OR	09/09/1999	Mushrooms.
36,932	P and M Cedar Products (Co.)	McCloud, CA	09/30/1999	Pencil Stock Lumber.
36,933	North State Garment Co. (Comp)	Farmville, NC	09/28/1999	Ladies' Pants, Skirts and Shorts.
36,934	ColumbiaKnit, Inc (Wkrs)	Portland, OR	09/23/1999	Cablecloth Knit Shirts.
36,935	McElveen Manufacturing (Co.)	New Zion, SC	09/29/1999	Athletic Wear.
36,936	King Manfacturing Co. (Co.)	Corinth, MS	09/29/1999	Metal Stampings.
36,937	Wagener Manufacturing Co (Co.)	Wagener, SC	09/30/1999	Apparel.
36,938	Purcell Services (Wkrs)	Anchorage, AK	09/27/1999	Armed Security & Medical Services.
36,939	Blair Turner Construction (Wkrs)	Silver City, NM	09/05/1999	Construction.
36,940	Simpson Industries, Inc (Co.)	Troy, OH	09/27/1999	Automotive Assembly Parts-Air Condition.
36,941	The Mexmil Company (Co.)	Everett, WA	09/29/1999	Airplane Insulation Blankets.
36,942	Magnolia Garment Corp. (Wkrs)	Magnolia, MS	09/27/1999	Children's Sleepwear.
36,943	SECO Warwick (Wkrs)	Meadville, PA	09/24/1999	Large Industrial Furnaces.
36,944	TAM Industries (Wkrs)	Glennville, GA	09/27/1999	Shirts.
36,945	Moll Industries—Anchor (Wkrs)	Morristown, TN	09/23/1999	Maybelline Cosmetics Bottle Caps.
36,946	Tektronix, Inc—Video (Wkrs)	Willsonville, OR	09/09/1999	Networking Computers.
36,947	Stone Container Corp. (Wkrs)	El Paso, TX	09/27/1999	Boxes.
36,948	Chromium Corporation (Co.)	Lufkin, TX	09/30/1999	Diesel Engine Components.
36,949	Spring Ford Industries (Wkrs)	Chilhowie, VA	09/28/1999	Fashion Tee-Shirts.
36,950	Parsons Energy and Chem. (Wkrs)	Houston, TX	09/22/1999	Engineered Refineries—Oil and Gas.
36,951	Cosema Mining (Wkrs)	Bruai, TX	09/27/1999	Uranium Mining.
36,952	Ann Loy Original (Wkrs)	New York, NY	10/01/1999	Ladies; Suits and Dresses.
36,953	SieMatic Corp (Wkrs)	Bensalem, PA	09/30/1999	Kitchen Cabinets.

[FR Doc. 99–28900 Filed 11–3–99; 8:45 am]
BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program: Certifications for 1999 Under the Federal Unemployment Tax Act

On October 31, 1999, the Secretary of Labor signed the annual certifications under the Federal Unemployment Tax Act, 26 U.S.C. 3301 *et seq.*, thereby enabling employers who make contributions to State unemployment funds to obtain certain credits for their liability for the Federal unemployment tax. By letter of the same date the certifications were transmitted to the Secretary of the Treasury. The letter and certifications are printed below.

Dated: November 1, 1999.

Raymond L. Bramucci,

Assistant Secretary.

Secretary of Labor

Washington, DC

October 31, 1999.

The Honorable Lawrence H. Summers,

Washington, DC 20220

Secretary of the Treasury,

Dear Secretary Summers: Transmitted herewith are an original and one copy of the certifications of the States and their unemployment compensation laws for the 12-month period ending on October 31, 1999. One is required with respect to normal Federal unemployment tax credit by Section 3304 of the Internal Revenue Code of 1986 (IRC), and the other is required with respect to additional tax credit by Section 3303 of the IRC. Both certifications list all 53 jurisdictions.

Sincerely,

Alexis M. Herman

Enclosures.

Certification of States to the Secretary of the Treasury Pursuant to Section 3304 of the Internal Revenue Code of 1986

In accordance with the provisions of Section 3304(c) of the Internal Revenue Code of 1986 (26 U.S.C. 3304(c)), I hereby certify the following named States to the Secretary of the Treasury for the 12-month period ending on October 31,1999, in regard to the unemployment compensation laws of those States which heretofore have been approved under the Federal Unemployment Tax Act:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Maryland
Massachusetts
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Oregon
Pennsylvania
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

This certification is for the maximum normal credit allowable under Section 3302(a) of the Code.

Signed at Washington, D.C., on October 31, 1999.

Alexis M. Herman,

Secretary of Labor.

Certification of State Unemployment Compensation Laws to the Secretary of the Treasury Pursuant to Section 3303(b)(1) of the Internal Revenue Code of 1986

In accordance with the provisions of paragraph (1) of Section 3303(b) of the Internal Revenue Code of 1986 (26 U.S.C. 3303(b)(1)), I hereby certify the unemployment compensation laws of the following named States, which heretofore have been certified pursuant to paragraph (3) of Section 3303(b) of the Code, to the Secretary of the Treasury for the 12-month period ending on October 31, 1999:

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
District of Columbia
Florida
Maryland
Massachusetts
Georgia
Hawaii
Idaho
Illinois
Indiana
Iowa
Kansas
Kentucky
Louisiana
Maine
Oregon
Pennsylvania
Michigan
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Jersey
New Mexico
New York
North Carolina
North Dakota
Ohio
Oklahoma
Puerto Rico
Rhode Island
South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Virgin Islands
Washington
West Virginia
Wisconsin
Wyoming

This certification is for the maximum additional credit allowable under Section 3302(b) of the Code.

Signed at Washington, DC, on October 31, 1999.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 99–28914 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–03497]

EIEIO, Incorporated Fall River, MA; Notice of Termination of Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act Public Law 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), an investigation was initiated on August 20, 1999 in response to a petition filed on behalf of former workers at EIEIO, Incorporated, located in Fall River, Massachusetts (NAFTA–03497).

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 5th day of October 1999.

Grant D. Beale,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28893 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–3265]

Georgia-Pacific Corporation Bellingham, WA; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of October 5, 1999, the Association of Western Pulp and Paper Workers on behalf of Local 194, requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for NAFTA-Transitional Adjustment Assistance (NAFTA–3265) for workers of the subject firm. The denial notice was signed on August 10, 1999, and published in the **Federal Register** on September 29, 1999 (64 FR 52542).

The Union presents evidence that warrants examination of imports of articles competitive with the liquefied chlorine gas produced by workers of the subject firm.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC this 27th day of October 1999.

Edward A. Tomchick,

Program Manager, Office of Trade Adjustment Assistance.

[FR Doc. 99–28895 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment Standards Administration

Agency Information Collection Activities; Proposed Collection; Comment Request; Survey of Physicians Board Certified in Internal Medicine with a Subspecialty in Pulmonary Medicine, Pulmonary Clinics and Facilities

ACTION: Notice.

SUMMARY: As part of its continuing effort to reduce paperwork and the burden placed on survey recipients, the Department of Labor conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) [44 U.S.C. 3505(c)(2)(A)]. The program helps to ensure that the data requested can be provided in the desired format, that the reporting burden (in terms of time and financial resources) is minimized, that collection instruments are clearly understood, and that the impact of the proposed collection on respondents can be properly assessed. Currently, the Employment Standards Administration is soliciting comment concerning a one-time survey of physicians, pulmonary clinics and facilities.

DATES: Written comments must be submitted by January 3, 2000.

ADDRESSES: Comments are to be submitted to James L. DeMarce, Director, Division of Coal Mine Workers' Compensation Programs, Room C–3520, Frances Perkins Building, 200 Constitution Ave., N.W. Washington, DC 20210. They may also be sent by facsimile to (202) 693–1398.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection request are available for inspection in the Division of Coal Mine Workers' Compensation, and will be mailed or sent by facsimile to persons who request copies by telephoning James L. DeMarce at (202) 693–0046.

SUPPLEMENTARY INFORMATION:

I. Background

On October 8, 1999, the Department published a notice of proposed rulemaking containing proposed revisions to the rules governing the adjudication of claims under the Black Lung Benefits Act, 30 U.S.C. 901 *et seq.* 64 FR 54965–55072 (Oct. 8, 1999). In proposing these revisions, the Department announced that it intends to seek additional information on two subjects from physicians, pulmonary clinics and facilities that perform medical evaluations of claimant eligibility. First, the Department would like to ascertain the extent to which such physicians, clinics and facilities use spirometers that are capable of producing a flow-volume loop. *See* 64 FR 54975. In addition, the Department seeks information on the fees necessary to attract highly qualified physicians to perform the medical testing and evaluation that the Department is required to provide under the Black Lung Benefits Act. *See* 64 FR 54989. The information obtained from this survey will assist the Department in administering the program.

II. Desired Focus of Comments

The Agency is particularly interested in comments which:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

—Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology used;

—Enhance the quality, utility and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including the possible use of appropriate automated, electronic, mechanical, or other technological collection techniques or information technology, *e.g.*, permitting electronic submissions of responses.

III. Current Action

This notice requests comment on the proposed survey to be conducted by the Department in connection with its notice of proposed rulemaking.

Type of Review: Regular Submission (new).

Agency: Employment Standards Administration.

Title: Survey of Physicians Board Certified in Internal Medicine with a subspecialty in Pulmonary Medicine, Pulmonary Clinics and Facilities.

OMB Number: New.

Affected Public: Physicians Board Certified in Internal Medicine with a subspecialty in Pulmonary Medicine, pulmonary clinics and facilities.

Frequency: Once.

Total Respondents: 2,000.

Average Time per Response: 10 minutes.

Estimated Total Burden hours: 333.3 hours.

Total Annualized capital/startup costs: 0.

Total Operation and Maintenance costs: $360.00.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the information collection request. Comments will become a matter of public record.

Signed at Washington, D.C., this 29th day of October, 1999.

T. Michael Kerr,

Deputy Assistant Secretary for Employment Standards.

[FR Doc. 99–28906 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–2–92]

Canadian Standards Association, Expansion of Recognition

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.
ACTION: Notice.

SUMMARY: This notice announces the Agency's final decision on the application of the Canadian Standards Association (CSA) for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7.

EFFECTIVE DATE: This recognition becomes effective on November 4, 1999 and, unless modified in accordance with 29 CFR 1910.7, continues in effect while CSA remains recognized by OSHA as an NRTL.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N3653, Washington, D.C. 20210, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

The Occupational Safety and Health Administration (OSHA) hereby gives notice of the expansion of recognition of the Canadian Standards Association (CSA) as a Nationally Recognized Testing Laboratory (NRTL). CSA's expansion request covers the use of an additional test standard. OSHA recognizes an organization as an NRTL, and processes applications related to such recognitions, following requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7). Appendix A to this section requires that OSHA publish this public notice of its final decision on an application.

CSA submitted a request, dated December 23, 1998 (see Exhibit 22A), to expand its recognition as an NRTL to include one: (1) Additional test standard, and provided some additional information relative to its request on January 5, 1999 (see Exhibit 22B). OSHA published the required notice of preliminary finding in the **Federal Register** (64 FR 38926, 7/20/99) to announce the application. The notice included a preliminary finding that CSA could meet the requirements for expansion of its recognition, and OSHA invited public comment on the application by September 20, 1999. OSHA received no comments concerning this application.

In the July 20 notice, OSHA also noted several changes that it would make to its records on the CSA recognition. As mentioned in the notice, CSA requested these changes and, although it has no requirements to give public notice of such changes, OSHA did so because some changes related to information that the Agency had previously made public. We also mentioned that we would not repeat, and we are not repeating, any details of the changes in the notice of our final decision, i.e., in this current notice. In the notice of preliminary finding, OSHA also announced the voluntary withdrawal of recognition by the American Gas Association (AGA) and, in accordance with our regulations, this withdrawal became effective on July 20, 1999.

CSA's previous application as an NRTL covered its expansion of recognition for additional programs (60 FR 36763, 7/12/96), which OSHA granted on November 20, 1996 (61 FR 59110).

You may obtain or review copies of all public documents pertaining to the application by contacting the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N2625, Washington, D.C. 20210, telephone: (202) 693–2350. You should refer to Docket No. NRTL–2–92, the permanent records of public information on the CSA recognition.

The current addresses of the testing facilities (sites) that OSHA recognizes for CSA are:

Canadian Standards Association, Etobicoke (Toronto), 178 Rexdale Boulevard, Etobicoke, Ontario, M9W 1R3

CSA International, Pointe-Claire (Montreal), 865 Ellingham Street, Pointe-Claire, Quebec H9R 5E8

CSA International, Richmond (Vancouver), 13799 Commerce Parkway, Richmond, British Columbia V6V 2N9

CSA International, Edmonton, 1707–94th Street, Edmonton, Alberta T6N 1E6 CSA International, Cleveland, 8501 East Pleasant Valley Road, Cleveland, Ohio 44131 (formerly part of the American Gas Association)

CSA International, Irvine, 2805 Barranca Parkway, Irvine, California 92606 (formerly part of the American Gas Association)

Final Decision and Order

The NRTL Program staff has examined the application and other pertinent information, and the assessment staff recommended, in a memo dated February 10, 1999 (see Exhibit 23), expansion of CSA's recognition to include the additional test standard listed below. Based upon this examination and recommendation, OSHA finds that CSA has met the requirements of 29 CFR 1910.7 for expansion of its recognition to use the additional test standard, subject to the limitations and conditions listed below. Pursuant to the authority in 29 CFR 1910.7, OSHA hereby expands the recognition of CSA, subject to these limitations and conditions. As is the case for any NRTL, CSA's recognition is further limited to equipment or materials (products) for which OSHA standards require third party testing and certification before use in the workplace.

Limitations

OSHA hereby expands the recognition of CSA for testing and certification of products to demonstrate compliance to the following test standard: UL 6500 Audio/Visual and Musical Instrument Apparatus for Household, Commercial, and Similar General Use. OSHA has determined this standard meets the requirements for an appropriate test standard prescribed in 29 CFR 1910.7(c). The designation and title of the test standard were current at the time of the preparation of this notice.

Conditions

The Canadian Standards Association must also abide by the following conditions of the recognition, in addition to those already required by 29 CFR 1910.7:

OSHA must be allowed access to CSA's facilities and records for purposes of ascertaining continuing compliance with the terms of its recognition and to investigate as OSHA deems necessary;

If CSA has reason to doubt the efficacy of any test standard it is using under this program, it must promptly inform the organization that developed the test standard of this fact and provide that organization with appropriate relevant information upon which its concerns are based;

CSA must not engage in or permit others to engage in any misrepresentation of the scope or conditions of its recognition. As part of this condition, CSA agrees that it will allow no representation that it is either a recognized or an accredited Nationally Recognized Testing Laboratory (NRTL) without clearly indicating the specific equipment or material to which this recognition is tied, or that its

recognition is limited to certain products;

CSA must inform OSHA as soon as possible, in writing, of any change of ownership, facilities, or key personnel, and of any major changes in its operations as an NRTL, including details;

CSA will continue to meet all the terms of its recognition and will always comply with all OSHA policies pertaining to this recognition;

CSA will continue to meet the requirements for recognition in all areas where it has been recognized; and

CSA will always cooperate with OSHA to assure compliance with the spirit as well as the letter of its recognition and 29 CFR 1910.7.

Signed at Washington, DC this 27th day of October 1999.

Charles N. Jeffress,

Assistant Secretary.

[FR Doc. 99–28915 Filed 11–3–99; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN–454, STN–455, STN–456 and STN 50–457]

Commonwealth Edison Company; Byron Station, Units 1 and 2; Braidwood Station, Units 1 and 2; Notice of Withdrawal of Application for Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Commonwealth Edison Company (the licensee) to withdraw its May 29, 1998, application for proposed amendments to Facility Operating License Nos. NPF–37 and NPF–66 for the Byron Station, Units 1 and 2, located in Ogle County, Illinois; and Facility Operating License Nos. NPF–72 and NPF–77 for the Braidwood Station, Units 1 and 2, in Will County, Illinois.

The proposed amendments would have revised the technical specifications to credit the automatic function of the pressurizer power operated relief valves (PORVs) for providing mitigation for inadvertent safety injection at power accident. The limiting condition for operation and surveillance requirements for the PORVs would also have been revised.

The Commission had previously issued a Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing published in the **Federal Register** on July 15, 1998 (63 FR 38199). However, by letter dated July 16, 1999, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated May 29, 1998, and the licensee's letter dated July 16, 1999, which withdrew the application for license amendments. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms: for Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Dated at Rockville, Maryland, this 29th day of October 1999.

For the Nuclear Regulatory Commission.

George F. Dick, Jr.,

Project Manager, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–28865 Filed 11–3–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–482]

Kansas Gas and Electric Company Kansas City Power and Light Company, Wolf Creek Nuclear Operating Corporation (Wolf Creek Generating Station, Unit No. 1); Order Approving Transfer of License and Conforming Amendment

I

Wolf Creek Nuclear Operating Corporation (WCNOC) is authorized to act as agent for the three joint owners of the Wolf Creek Generating Station, Unit 1 (WCGS) and has exclusive responsibility and control over the physical construction, operation and maintenance of the facility as reflected in Facility Operating License No. NPF–42. Kansas Gas and Electric Company (KGE) and Kansas City Power and Light Company (KCPL) each hold 47 percent possessory interests in WCGS. Kansas Electric Power Cooperative, Inc. (KEPCo) holds a 6 percent possessory interest. The Nuclear Regulatory Commission issued Facility Operating License No. NPF–42 on June 4, 1985, pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50). The facility is located in Coffey County, Kansas.

II

By letter dated October 27, 1998, WCNOC forwarded an application requesting approval of the proposed transfer of KGE's and KCPL's rights under the WCGS operating license, and requesting approval of a conforming license amendment to reflect the transfer. The initial application was supplemented on November 10, 1998 (collectively referred to as the application unless otherwise noted).

According to the application, KGE and KCPL have agreed to sell each of their 47 percent ownership interests (94 percent in total) in WCGS to Westar Energy, Inc., subject to obtaining all necessary regulatory approvals. WCNOC would remain as the Managing Agent for the joint owners of the facility and would continue to have exclusive responsibility for the management, operation and maintenance of WCGS. The conforming amendment would remove KGE and KCPL from the facility operating license, including the antitrust license conditions, and would add Westar Energy, Inc. in their place.

Approval of the transfer and conforming license amendment was requested pursuant to 10 CFR 50.80 and 50.90. Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on January 29, 1999 (64 FR 4726). A supplemental correction notice was published on February 8, 1999 (64 FR 6119), clarifying that hearing requests concerning the application were due by February 18, 1999. On that date, KEPCo filed a hearing request. The Commission denied the request on June 18, 1999. *Kansas Gas and Electric Company, et al.* (Wolf Creek Generating Station, Unit 1), CLI–99–19, 49 NRC 441 (1999).

Under 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission give its consent in writing. Upon review of the information submitted in the application, and other information before the Commission, the NRC staff has determined that Westar Energy, Inc. is qualified to hold the license to the extent now held by KGE and KCPL, and that the transfer of the license, to the extent held by KGE and KCPL, to Westar Energy, Inc., is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth below. The NRC staff has further found that the application for

amendment to Facility Operating License No. NPF–42 complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed amendment can be conducted without endangering the health and safety of the public, and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the proposed amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by a safety evaluation which is Enclosure 3 to the staff's letter dated October 29, 1999.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), and 2234, and 10 CFR 50.80, *it is hereby ordered* that the license transfer referenced above is approved, subject to the following conditions:

(1) Westar Energy, Inc. shall, prior to the completion of the subject merger and transfer, provide the Director, Office of Nuclear Reactor Regulation, satisfactory documentary evidence that Westar Energy, Inc. has obtained the appropriate amount of insurance required of licensees under 10 CFR Part 140 of the Commission's regulations.

(2) After receipt of all required regulatory approvals of the transfer of KGE's and KCPL's interests in WCGS to Westar Energy, Inc., KGE, KCPL, and WCNOC shall inform the Director, Office of Nuclear Reactor Regulation, in writing of such receipt within five business days, and of the date of the closing of the transfer no later than seven business days prior to the date of closing. Should the transfer not be completed by October 30, 2000, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

It Is Further Ordered that, consistent with 10 CFR 2.1315(b), a license amendment that makes changes, as indicated in Enclosures 2 and 3 of the staff's letter dated October 29, 1999, to conform the license to reflect the subject license transfer is approved. Such amendment shall be issued and made effective at the time the proposed license transfer is completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated October 27, 1998, supplement dated November 10, 1998, and staff's letter dated October 29, 1999, with enclosures, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801, and the Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 29th day of October 1999.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 99–28863 Filed 11–3–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[IA 99–047]

Order Prohibiting Involvement in NRC-Licensed Activities (Effective Immediately)

I

In the Matter of Jasen Mallahan.

Mr. Jasen Mallahan (Mr. Mallahan) was employed as a radiographer by Professional Service Industries, Inc. (PSI or Licensee). The Licensee is the holder of License No. 12–16941–03 issued by the Nuclear Regulatory Commission (NRC or Commission) pursuant to 10 CFR Parts 30 and 34 on September 13, 1995. The license authorizes possession and use of sealed sources in the conduct of industrial radiography in accordance with the conditions specified therein.

II

On April 6, 1999, an investigation was initiated by the NRC Office of Investigations (OI) to determine if a radiographer and a radiographer's assistant, employees of an NRC licensee, deliberately violated NRC requirements at a jobsite in Pocatello, Idaho. Mr. Mallahan and a radiographer's assistant conducted radiographic operations at a plant in Idaho during the evening of September 14 and early morning of September 15, 1998. A radiography camera containing a sealed source of about 60 curies of cobalt-60 was being used to complete panoramic radiographic testing of a large steel tank. The tank had four welded seams and each one required a one-hour shot and about 36 pieces of film. After the last shot, two plant employees breached the boundary set by the PSI workers. The plant employees became concerned that they may have received radiation exposures. However, it was determined that the source had been returned to its shielded position and locked prior to the employees' entry into the barricaded area. Therefore, the individuals did not receive a radiation exposure. As a result of this incident, OI determined that several violations of NRC requirements occurred during the third and fourth radiographic shots and that two violations occurred because of the deliberate actions of Mr. Mallahan. The violations include failure to supervise the radiographer's assistant (10 CFR 34.46) and to follow the two-person rule (10 CFR 34.41). Specifically, after the third one-hour shot was started, Mr. Mallahan began developing film in the dark room, leaving the assistant alone to maintain constant surveillance of the barricaded area. At the conclusion of the shot, Mr. Mallahan came out of the dark room and retracted the source into the device. After the fourth shot was started, Mr. Mallahan returned to the dark room, as before, leaving the assistant to maintain constant surveillance of the barricaded area. Upon completion of the 4th shot, Mr. Mallahan remained in the dark room and the assistant retracted the source, completed surveys of the device and guide tube, locked the device, and removed the key. According to the interview with OI, Mr. Mallahan acknowledged receiving radiation safety training which included the requirement for two-person surveillance during the conduct of radiographic operations. He further acknowledged receiving training on the prohibition of allowing a radiographer's assistant to conduct radiographic operations without direct supervision of a radiographer.

III

Based on the above, the NRC has determined that Mr. Mallahan, an employee of the Licensee, engaged in deliberate misconduct in violation of 10 CFR 30.10(a)(1), causing the Licensee to be in violation of 10 CFR 34.41(a) and 34.46. Specifically, the NRC has concluded that Mr. Mallahan deliberately failed to observe the two-person rule and failed to supervise a radiographer's assistant at a temporary jobsite on September 14 and 15, 1998. The NRC must be able to rely on the

Licensee and its employees to comply with NRC requirements. This deliberate act is significant because Mr. Mallahan, an experienced radiographer, failed to observe the safeguards designed to protect him and others from potentially dangerous radiation exposures. Mr. Mallahan's actions during this incident have raised serious doubt as to whether he can be relied upon to comply with NRC requirements.

Consequently, I lack the requisite reasonable assurance that licensed activities can be conducted in compliance with the Commission's requirements and that the health and safety of the public will be protected if Mr. Mallahan were permitted at this time to be involved in NRC-licensed activities. Therefore, the NRC has determined that the public health, safety and interest require that Mr. Mallahan be prohibited from any involvement in NRC-licensed activities for a period of one year from the effective date of this Order. If Mr. Mallahan is involved in NRC-licensed activities on the effective date of this Order, he must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer. Additionally for a period of one year after the one year period of prohibition has expired, Mr. Mallahan is required to notify the NRC of his first employment in NRC-licensed activities. Furthermore, pursuant to 10 CFR 2.202, I find that the significance of Mr. Mallahan's conduct described above is such that the public health, safety and interest require that this Order be immediately effective.

IV

Accordingly, pursuant to sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202, 10 CFR 30.10, and 10 CFR 150.20, *It is hereby ordered, effective immediately, that:*

1. Mr. Mallahan is prohibited from engaging in NRC-licensed activities for one year from the effective date of this Order. NRC-licensed activities are those activities that are conducted pursuant to a specific or general license issued by the NRC, including, but not limited to, those activities of Agreement State licensees conducted pursuant to the authority granted by 10 CFR 150.20.

2. If Mr. Mallahan is involved in NRC-licensed activities on the effective date of this Order, he must immediately cease such activities, and inform the NRC of the name, address and telephone number of the employer, and provide a copy of this Order to the employer.

3. For a period of one year after the one year period of prohibition has expired, Mr. Mallahan shall, within 20 days of his acceptance of each employment offer involving NRC-licensed activities or his becoming involved in NRC-licensed activities as defined in Paragraph IV.1 above, provide notice to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, of the name, address, and telephone number of the employer or the entity where he is, or will be, involved in the NRC-licensed activities. In the first such notification, Mr. Mallahan shall include a statement of his commitment to compliance with regulatory requirements and the basis why the Commission should have confidence that he will now comply with applicable NRC requirements.

The Director, Office of Enforcement, may, in writing, relax or rescind any of the above conditions upon demonstration by Mr. Mallahan of good cause.

V

In accordance with 10 CFR 2.202, Mr. Mallahan must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory commission, Washington, DC 20555, and include a statement of good cause for the extension. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which Mr. Mallahan or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region III, 801 Warrenville Road, Lisle, Illinois 60532, and to Mr. Mallahan if the answer or hearing request is by a person other than Mr. Mallahan. If a person other than Mr. Mallahan requests a hearing, that person shall set forth with particularity the manner in which his or her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by Mr. Mallahan or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), Mr. Mallahan may, in addition to demanding a hearing, at the time the answer is filed or sooner, move the presiding officer to set aside the immediate effectiveness of the Order on the ground that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be effective and final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. AN ANSWER OR A REQUEST FOR HEARING SHALL NOT STAY THE IMMEDIATE EFFECTIVENESS OF THIS ORDER.

Dated this 22nd day of October 1999, Rockville, Maryland.

For the Nuclear Regulatory Commission,

Carl J. Paperiello,

Deputy Executive Director for Materials, Research and State Programs.

[FR Doc. 99–28864 Filed 11–3–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–10]

Northern States Power Company, Prairie Island Nuclear Power Plant; Notice of Docketing of the Materials License SNM–2506 Amendment, Application for the Prairie Island Independent Spent Fuel Storage Installation

By letter dated August 31, 1999, Northern States Power Company (NSP) submitted an application to the Nuclear Regulatory Commission (NRC or the

Commission) in accordance with 10 CFR Part 72 requesting the amendment of the Prairie Island independent spent fuel storage installation (ISFSI) license (SNM–2506) and the Technical Specifications for the ISFSI located in Goodhue County, Minnesota. NSP is seeking Commission approval to amend the materials license and the ISFSI Technical Specifications to allow storage of burnable poison rod assemblies and thimble plug devices in the TN–40 storage casks at the Prairie Island ISFSI.

This application was docketed under 10 CFR Part 72; the ISFSI Docket No. is 72–10 and will remain the same for this action. The amendment of an ISFSI license is subject to the Commission's approval.

The Commission may issue either a notice of hearing or a notice of proposed action and opportunity for hearing in accordance with 10 CFR 72.46(b)(1) or, if a determination is made that the amendment does not present a genuine issue as to whether public health and safety will be significantly affected, take immediate action on the amendment in accordance with 10 CFR 72.46(b)(2) and provide notice of the action taken and an opportunity for interested persons to request a hearing or whether the action should be rescinded or modified.

For further details with respect to this application, see the application dated August 31, 1999, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555 and at the Local Public Document Room located at the Technology and Science Department, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Dated at Rockville, Maryland, this 20th day of October 1999.

For the Nuclear Regulatory Commission,

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–28861 Filed 11–3–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Public Comment on the Pilot Program for the New Regulatory Oversight Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of public comment period.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing significant revisions to its processes for overseeing the safety performance of commercial nuclear power plants that include integrating the inspection, assessment, and enforcement processes. As part of its proposal, the NRC staff established a new regulatory oversight framework with a set of performance indicators and associated thresholds, developed a new baseline inspection program that supplements and verifies the performance indicators, and created a continuous assessment process that includes a method for consistently determining the appropriate regulatory actions in response to varying levels of safety performance. The changes are the result of continuing work on a concept as described in SECY–99–007, ''Recommendations for Reactor Oversight Process Improvements'' dated January 8, 1999, and SECY–99–007A, ''Recommendations for Reactor Oversight Improvements (Follow-Up to SECY–99–007)'' dated March 22, 1999. In June 1999, the NRC began a six-month pilot program with two sites participating from each region. The purpose of the pilot program is to exercise the new oversight process, identify problems, develop lessons learned, and make any necessary changes before full implementation at all sites currently scheduled for April 2000. The NRC is soliciting comments from interested public interest groups, the regulated industry, States, and concerned citizens. The NRC staff will consider comments it receives for further development and refinement of the new oversight process.

Given that inspection related information, while publically available, was not available on the newly established website this public comment period has been extended at the request of some stakeholders to allow for more comprehensive review of the Revised Reactor Oversight Process.

DATES: The comment period expires December 31, 1999. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: Comments may be submitted either electronically or via U.S. mail. Submit written comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop: T–6 D59, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001. Hand deliver comments to: 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. Copies of comments received may be examined at the NRC's Public Document Room, 2120 L Street, N.W. (Lower Level), Washington, D.C.

Comments may be submitted electronically at the ''NRC Initiatives 1999'' web page at'': *http://www.nrc.gov/NRC/COMMISSION/INITIATIVES/1999/COMMENTS/2acmt.html*

Copies of the Pilot Program Guidelines may be obtained at the following web site: *http://www.nrc.gov/NRC/NRR/OVERSIGHT/INDEX.html*

Additional information on the pilot program may be obtained from the NRC's Public Document Room at 2120 L St., N.W., Washington, D.C. 20003–1527, telephone 202–634–3273.

FOR FURTHER INFORMATION CONTACT: Alan Madison, Mail Stop: O–5 H4, Inspection Program Branch, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, telephone 301–415–1490.

Dated at Rockville, Maryland, this 29th day of October 1999.

For the Nuclear Regulatory Commission,

William M. Dean,

Chief, Inspection Program Branch, Division of Inspection Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–28860 Filed 11–3–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Pilot Program Evaluation Panel; Meeting Notice

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 94–463, Stat. 770–776) the U.S. Nuclear Regulatory Commission (NRC) announced the establishment of the Pilot Program Evaluation Panel (PPEP). The PPEP functions as a management-level oversight group to monitor and evaluate the success of the Commission's Reactor Oversight Process Improvements program. A Charter governing the PPEP functions as a Federal Advisory Committee was filed with Congress on June 30, 1999, after consultation with the Committee Management Secretariat, General Services Administration. The PPEP will hold its forthcoming meetings on November 16 and 17, 1999, at the DoubleTree Hotel, 1750 Rockville Pike, Rockville, Maryland 20852 (Phone 301–468–1100/Fax 301–468–0308). Hotel accommodations may be arranged directly with DoubleTree Hotel. Parking is available at $5.00 per day.

The PPEP meeting participants are listed below along with their affiliation:

Frank P. Gillespie—Nuclear Regulatory Commission
Mohan C. Thadani—Nuclear Regulatory Commission
James T. Wiggins—Nuclear Regulatory Commission
Heidi Hahn—Los Alamos National Laboratories
Bruce Mallet—Nuclear Regulatory Commission
Geoffrey Grant—Nuclear Regulatory Commission
Kenneth E. Brockman—Nuclear Regulatory Commission
James Lieberman—Nuclear Regulatory Commission
Steve Floyd—Nuclear Energy Institute
David Garchow—Public Service Electric and Gas
Masoud Bajestani—Tennessee Valley Authority
George Barnes—Commonwealth Edison Company
James Chase—Omaha Public Power District
Gary Wright—Illinois Department of Nuclear Safety
David Lochbaum—Union of Concerned Scientists

Additionally, the representatives of the following States and interested groups have been invited to provide their views and their stakeholders' views:

Public Citizen-Washington, DC;
Manager of Projects and Programs-Southern California Edison , San Clemente, CA;
The State of North Carolina;
The State of Pennsylvania;
The State of New Jersey;
The State of Nebraska;
The State of New York;
The State of Vermont;
The State of Florida;
The State of Tennessee; and
The State of Minnesota

Tentative agendas of the meetings are outlined as follows:

November 16, 1999 Meeting

8:00 a.m. Introduction/Meeting Objectives and Goals
8:30 a.m. Performance indicators and Risk Informed Baseline Inspections Input from each non-NRC participant (10 minutes each) PPEP Discussion and questions (30 minutes)
11:00 a.m. Significance Determination Process and Assessments Input from each non-NRC participant (10 minutes each)
12:00 Noon Lunch
1:00 p.m. Significance Determination Process and Assessments (Continued) PPEP Discussion and questions (30 minutes)
2:00 p.m. Enforcement and Overall Evaluation Input from each non-NRC participant (10 minutes each) PPEP Discussion and questions (30 minutes)
3:30 p.m. General Discussion
4:00 p.m. Adjourn

November 17, 1999 Meeting

8:00 a.m. Recap of previous day/ Meeting objectives and Goals
8:30 a.m. Performance Indicators and Risk Informed Baseline Inspections; NRC Headquarter's Panel Presentation (45 minutes); NRC Regional Panel Presentation (15 minutes); PPEP Discussion and questions (30 minutes)
10:15 a.m. Significance Determination Process and Assessments; NRC Headquarter's Panel Presentation (45 minutes); NRC Regional Panel Presentation (15 minutes); PPEP Discussion and questions (30 minutes)
12:00 Noon Lunch
1:00 p.m. Enforcement and Overall; NRC Headquarter's Panel Presentation (45 minutes); NRC Regional Panel Presentation (15 minutes); PPEP Discussion and questions (30 minutes)
3:00 p.m. PPEP Teams Caucus
3:30 p.m. PPEP Discussion
4:00 p.m. Adjourn

Meetings of the PPEP are open to the members of the public. Oral or written views may be presented by the members of the public, including members of the nuclear industry. Persons desiring to make oral statements should notify Mr. Frank P. Gillespie (Telephone 301/415–1004, e-mail FPG@nrc.gov) or Mr. Mohan C. Thadani (Telephone 301/415–1476, e-mail MCT@nrc.gov) five days prior to the meeting date, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras will be permitted during this meeting.

Further information regarding topics of discussion; whether the meeting has been canceled, rescheduled, or relocated; and the Panel Chairman's ruling regarding requests to present oral statements and time allotted, may be obtained by contacting Mr. Frank P. Gillespie or Mr. Mohan C. Thadani between 8:00 a.m. and 4:30 p.m. EDT.

PPEP meeting transcripts and meeting reports will be available from the Commission's Public Document Room. Transcripts will be placed on the agency's web page at the address below.

http://www.nrc.gov/NRR/OVERSIGHT/index.html.

Transcripts of previous PPEP meetings can be viewed as background material at the above web site.

Dated: October 29, 1999.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 99–28858 Filed 11–3–99; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Thermal-Hydraulic Phenomena; Notice of Meeting

The ACRS Subcommittee on Thermal-Hydraulic Phenomena will hold a meeting on November 17, 1999, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The agenda for the subject meeting shall be as follows:

W*ednesday, November 17, 1999—8:30 a.m. until the conclusion of business.*

The Subcommittee will review the industry effort coordinated by the Electric Power Research Institute to address the issue of waterhammer in low-pressure fluid systems, pursuant to resolution of Generic Letter 96–06, and continue its review of the NRC code review guideline documents (draft Regulatory Guide and Standard Review Plan Section). The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Portions of the meeting may be closed to public attendance to discuss Electric Power Research Institute (EPRI) proprietary information pursuant to 5 U.S.C. 552b(c)(4).

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman. Written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be

considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of EPRI, the NRC staff, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the scheduling of sessions which are open to the public, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Paul A. Boehnert (telephone 301/415–8065) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: October 29, 1999.

Howard J. Larson,

Acting Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 99–28859 Filed 11–3–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Consolidated Guidance About Materials Licenses: Program-Specific Guidance About Possession Licenses for Manufacturing and Distribution, Availability of Draft NUREG

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of availability and request for comments.

SUMMARY: The NRC is announcing the availability of and requesting comment on draft NUREG–1556, Volume 12, ''Consolidated Guidance about Materials Licenses: Program-Specific Guidance about Possession Licenses for Manufacturing and Distribution,'' dated July 1999.

The NRC is using Business Process Redesign techniques to redesign its materials licensing process, as described in NUREG–1539, ''Methodology and Findings of the NRC's Materials Licensing Process Redesign.'' A critical element of the new process is consolidating and updating numerous guidance documents into a NUREG-series of reports. This draft NUREG report is the12th guidance document developed to support an improved materials licensing process.

This guidance is intended for use by applicants, licensees, and the NRC staff, and will also be available to Agreement States. This document combines and updates the guidance found in Regulatory Guide 10.7, ''Guide for the Preparation of Applications for Licenses for Laboratory and Industrial Use of Small Quantities of Byproduct Material,'' dated August 1979; Nuclear Material Safety and Safeguards (NMSS) Policy and Guidance Directive FC 84–1, ''Review Responsibility—Manufacturing and Distribution of Products to Persons Exempt Pursuant to 10 CFR 32.11 through 32.26,'' dated April 1984; NMSS Policy and Guidance Directive FC 85–6, ''Standard Review Plan for Applications for Licenses and Approvals to Authorize Distribution of Various Items to Group Medical Licensees,'' dated February 1985; and Draft Regulatory Guide DG–0007, ''Guide for the Preparation of Applications for Licenses to Authorize Distribution of Various Items to Commercial Nuclear Pharmacies and Medical Use Licensees,'' dated March 1997. This draft report takes a more risk-informed, performance-based approach to licensing possession for manufacturing and distribution, and reduces the amount of detailed information needed to support an application. Note that this document is strictly for public comment and is not for use in preparing or reviewing possession licenses for manufacturing and distribution licenses until it is published in final form. It is being distributed for comment to encourage public participation in its development.

DATES: The comment period ends February 2, 2000. Comments received after that time will be considered if practicable.

ADDRESSES: Submit written comments to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001. Hand-deliver comments to 11545 Rockville Pike, Rockville, Maryland, between 7:15 a.m. and 4:30 p.m. on Federal workdays. Comments may also be submitted through the Internet by addressing electronic mail to dlm1@nrc.gov.

Those considering public comment may request a free single copy of draft NUREG–1556, Volume 12, by writing to the U.S. Nuclear Regulatory Commission, ATTN: Mrs. Sally L. Merchant, Mail Stop TWFN 9–F–31, Washington, D.C. 20555–0001. Alternatively, submit requests through the Internet by addressing electronic mail to slm2@nrc.gov. A copy of draft NUREG–1556, Volume 12, is also available for inspection and/or copying for a fee in the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, D.C. 20555–0001.

The Presidential Memorandum dated June 1, 1998, entitled, ''Plain Language in Government Writing,'' directed that the Federal government's writing be in plain language. The NRC requests comments on this licensing guidance NUREG specifically with respect to the clarity and effectiveness of the language used. Comments should be sent to the address listed above.

FOR FURTHER INFORMATION, CONTACT: Mrs. Sally L. Merchant, Mail Stop TWFN 9–F–31, Division of Industrial and Medical Nuclear Safety, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone (301) 415–7874; electronic mail address: *slm2@nrc.gov.*

Electronic Access

Draft NUREG–1556, Vol. 12 is available electronically by visiting the NRC's Home Page (*http://www.nrc.gov/nrc/nucmat.html).*

Dated at Rockville, Maryland, this 17 day of September, 1999.

For the Nuclear Regulatory Commission.

Catherine Haney,

Acting Chief, Rulemaking and Guidance Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 99–28862 Filed 11–3–99; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: RI 38–128

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of a revised information collection. RI 38–128, It's Time to Sign Up for Direct Deposit, is used to give recent retirees the opportunity to waive Direct Deposit of their payments from OPM. The form is sent only if the separating agency did not give the retiring employee this election opportunity.

Comments are particularly invited on: whether this information is necessary

for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Approximately 45,500 forms are completed annually. The form takes approximately 30 minutes to complete. The annual estimated burden is 22,750 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or E-mail to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received on or before January 3, 2000.

ADDRESSES: Send or deliver comments to—Ronald W. Melton, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Donna G. Lease, Team Leader, Budget & Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 99–28818 Filed 11–3–99; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Review of a Revised Information Collection: RI 25–7

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget a request for review of a revised information collection. RI 25–7, Marital Status Certification, is used to determine whether widows, widowers, and former spouses receiving survivor annuities from OPM have remarried before reaching age 55 and, thus, are no longer eligible for benefits from us.

Approximately 45,000 forms are completed annually. Each form takes approximately 15 minutes to complete. The annual estimated burden is 11,250 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or E-mail to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received on or before December 4, 1999.

ADDRESSES: Send or deliver comments to—

William C. Jackson, Chief, Eligibility Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 2336, Washington, DC 20415–3560

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW, Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Phyllis R. Pinkney, Management Analyst, Budget and Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

[FR Doc. 99–28817 Filed 11–3–99; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974: Amendment to a System of Records

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice to amend a system of records.

SUMMARY: OPM proposes to amend a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of record systems maintained by the agency.

DATES: The changes will be effective without further notice on December 14, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send written comments to Office of Personnel Management, ATTN: Mary Beth Smith-Toomey, Office of the Chief Information Officer, 1900 E Street NW., Room 5415, Washington, DC 20415–7900.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 606–8358.

SUPPLEMENTARY INFORMATION: This notice serves to update OPM/Central-13, Executive Personnel Records, to reflect organizational and statutory changes and to delete references to obsolete storage methods.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

OPM/CENTRAL–13

SYSTEM NAME:

Executive Personnel Records.

SYSTEM LOCATION:

Office of Executive Resources Management, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415–0001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former appointees in the Senior Executive Service; current and former incumbents of Executive Schedule, Scientific and Professional research and development, Senior Level, Board of Contract Appeals, and similar positions; former incumbents of General Schedule 16–18 positions; and participants in and graduates of OPM-approved agency Senior Executive candidate development programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include:

a. Demographic, appointment, and assignment information (*e.g.*, name, office address, date of birth, Social Security Number, sex, race and ethnic designation, titles of positions, pay rates, and types of appointments).

b. Background data on work experience, educational experience, publications or awards (includes performance ratings and any performance, rank, or incentive awards received), and career interests.

c. Determinations on nominees for Meritorious and Distinguished Presidential Rank awards.

d. Determinations concerning executive (managerial) qualifications (*i.e.*, Qualification Review Board records).

e. Information on performance of executives (*e.g.*, performance ratings, performance awards, and incentive awards).

f. Information relating to participants (current and former) in the sabbatical leave program (*e.g.*, dates of participation and reasons for the leave).

g. Applications from individuals who, within the 90-day period provided for under 5 U.S.C. 3593(b), seek reemployment in the Senior Executive Service.

h. Information concerning the reason(s) why an individual leaves an executive position (*e.g.*, retired, resigned, to enter private industry, to work for a State government, or removed during probation or after because of performance).

i. Information about the recruitment of individuals for executive positions (*e.g.*, recruited from another Federal agency or from outside the Federal service).

Note: Automated and manual duplicates of records in this system, maintained by agencies for purposes of actual administration of the SES, along with other records agencies have on Federal executives, are not considered part of this system. Such records are considered general personnel records and are covered by the OPM/GOVT–1, General Personnel Records system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Includes the following with any revisions and amendments:

5 U.S.C. 2101 through 2103; 3104; 3131 through 3134; 3136; 3324; 3325; 3391 through 3397; 3591 through 3596; 4311 through 4315; 4507; 5108; 5381 through 5385; 5752 through 5754; and 7541 through 7543.

PURPOSE(S):

The records are used to:

a. Assist OPM in carrying out its responsibilities under title 5, U.S. Code, and OPM rules and regulations promulgated thereunder, including the allocation and establishment of SES, Senior Level, and Scientific and Professional research and development positions, development of qualification standards for SES positions, establishment and operation of one or more qualifications review boards, establishment of programs to develop candidates for and incumbents of executive positions, and development of performance appraisal systems.

b. Pursuant to section 415 of the Civil Service Reform Act, assist OPM in meeting its mandate to evaluate the effectiveness of the SES and the manner in which the Service is administered.

c. Provide data used in policy formulation, program planning and administration, research studies, and required reports regarding the Government-wide executive program.

d. Locate specified groups of individuals for personnel research (while protecting their individual privacy). Race and ethnic data and performance ratings are collected for statistical use only.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses 1 through 5, and 7 through 11, of the Prefatory Statement at the beginning of OPM's system notices (60 FR 63075, effective January 17, 1996) apply to the records maintained within this system. The routine uses listed below are specific to this system of records only:

a. To identify and refer qualified current or former Federal employees to Federal agencies for executive vacancies.

b. To refer qualified current or former Federal employees or retirees to State and local governments and international organizations for employment considerations.

c. To provide an employing agency with extracts from the records of that agency's employees in the system.

d. By OPM to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the functions for which the records are collected and maintained, or for related work force studies. While published studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

e. To disclose information to any member of an agency's Performance Review Board or other board or panel (*e.g.*, one convened to select or review nominees for awards of merit pay increases), when the member is not an official of the employing agency; information would then be used for the purposes of approving or recommending selection of candidates for executive development programs, issuing a performance appraisal rating, issuing performance awards, nominating for Meritorious and Distinguished Executive ranks, and removal, reduction-in-grade, and other personnel actions based on performance.

f. To provide information to the White House on executives with noncareer appointments in the Senior Executive Service, in positions formerly in the General Schedule filled by noncareer executive assignments, in excepted positions paid at Executive Schedule pay rates, and in positions in the Senior Level pay system or other pay systems equivalent to those described which are filled by Presidential appointment or excepted from the competitive service because they are of a confidential or policy-determining character.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in hardcopy, magnetic media, and microfiche.

RETRIEVABILITY:

Records are retrieved by the name and Social Security Number of the individual to whom they pertain.

SAFEGUARDS:

Manual records are maintained in lockable metal filing cabinets or in secured rooms with access limited to those whose official duties require access. Access to computerized records is limited to those whose official duties require access. Access to race and ethnic data is restricted to specially designated OPM personnel.

RETENTION AND DISPOSAL:

Records are retained for varying lengths of time, in accordance with disposition schedules approved by NARA. Disposal of manual records is by shredding or burning, electronic databases are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Executive Resources Management, Office of Personnel Management, 1900 E Street NW, Washington, DC 20415–0001.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system or records contains information about them should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Social Security Number.
c. Address where employed.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to records about themselves should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Social Security Number.
c. Address where employed.

An individual requesting access must also follow OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of their records should contact the system manager. Individuals

must furnish the following information for their records to be located and identified:

a. Full name.

b. Social Security Number.

c. Address where employed.

Individuals requesting amendment must also follow OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from:

a. The individual named in the record.

b. His or her employing agency.

c. Official documents of OPM.

[FR Doc. 99–28815 Filed 11–3–99; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974: Amendment to a System of Records

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice to amend a system of records.

SUMMARY: OPM proposes to amend a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. This action is necessary to meet the requirements of the Privacy Act to publish in the **Federal Register** notice of the existence and character of record systems maintained by the agency.

DATES: The changes will be effective without further notice on December 14, 1999, unless comments are received that would result in a contrary determination.

ADDRESSES: Send written comments to Office of Personnel Management, ATTN: Mary Beth Smith-Toomey, Office of the Chief Information Officer, 1900 E Street NW., Room 5415, Washington, DC 20415–7900.

FOR FURTHER INFORMATION CONTACT: Mary Beth Smith-Toomey, (202) 606–8358.

SUPPLEMENTARY INFORMATION: This notice serves to update OPM/Central-5, Intergovernmental Personnel Act Assignment Records, by amending the system manager, the records maintained in the system, and the records storage and retrievability practices.

U.S. Office of Personnel Management.

Janice R. Lachance,

Director.

OPM/CENTRAL–5

SYSTEM NAME:

Intergovernmental Personnel Act Assignment Records.

SYSTEM LOCATION:

Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E Street NW., Washington DC 20415–0001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former Federal employees who have completed or are presently on an assignment in a State or local government agency, an educational institution, or in Indian tribal government, or other organizations under the provisions of the Intergovernmental Personnel Act (IPA).

b. Current or former State or local government or educational institution employees, employees of Indian tribal governments, or other organizations who have completed or are presently on an assignment in a Federal agency under the provisions of the Intergovernmental Personnel Act (IPA).

CATEGORIES OF RECORDS IN THE SYSTEM:

These records consist of the name of the IPA assignee and the name of his/her permanent organization and IPA assignment organization, type of IPA assignment, salary, percentage of salary funded by the Federal Government, title of the IPA position, and beginning and ending dates of the IPA assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Includes the following with any revisions and amendments:

The Intergovernmental Personnel Act of 1970 (84 Stat. 1909), 5 U.S.C. 3371–3376, and E.O. 11589.

PURPOSE(S):

These records are maintained to document and track mobility assignments (including extensions, modifications, and terminations thereof) made under the Intergovernmental Personnel Act. Internally, OPM may use these records to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Routine uses 1 through 6 of the Prefatory Statement at the beginning of OPM's system notices (60 FR 63075, effective January 17, 1996) apply to the records maintained within this system. The routine use listed below is specific to this system of records only:

a. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), where necessary to obtain information relevant to an OPM decision regarding possible termination of an assignment.

POLICIES AND PRACTICES OF STORING, RETRIEVING, SAFEGUARDING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in an electronic database on a personal computer, floppy disks, and in file folders.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained or any of the data elements in the database.

SAFEGUARDS:

Records are maintained in a secured area with access limited to authorized personnel whose duties require access. Confidential passwords are required for access to automated records.

RETENTION AND DISPOSAL:

Records are retained for 5 years from the signing of the agreement. Manual records are destroyed by shredding or burning, electronic records are destroyed by erasure.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director, Office of Merit Systems Effectiveness, Office of Merit Systems Oversight and Effectiveness, Office of Personnel Management, 1900 E Street NW., Washington, DC 20415–0001.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the system manager. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Federal agency involved in the assignment.

c. Non-Federal organization involved in the assignment.

d. Date of each assignment.

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to records about them should contact the system manager. Individuals must furnish the following information for

their records to be located and identified:

a. Full name.
b. Federal agency involved in the assignment.
c. Non-Federal organization involved in the assignment.
d. Date of each assignment.

An individual requesting access must also follow OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR part 297).

CONTESTING RECORD PROCEDURE:

Individuals seeking to amend their records should contact the system manager. Requesters must furnish the following information for their records to be located and identified:

a. Full name.
b. Federal agency involved in the assignment.
c. Non-Federal organization involved in the assignment.
d. Date of each assignment.

Individuals requesting amendment of their records must also follow OPM's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR part 297).

RECORD SOURCE CATEGORIES:

Information in these records is obtained from:

a. The individual subject of the records.
b. Officials in the agencies, educational institutions, Indian tribal governments or other organizations where the individual is employed and where the individual is serving on the IPA assignment.
c. Agency personnel files and records.

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BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–24116; 812–11726]

T. Rowe Price Associates, Inc., et. al.; Notice of Application

October 29, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under the Investment Company Act of 1940 (the ''Act'') under (i) section 6(c) of the Act granting an exemption from sections 18(f) and 21(b) of the Act; (ii) section 12(d)(1)(J) of the Act granting an exemption from section 12(d)(1) of the Act; (iii) sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and 17(a)(3) of the Act; and (iv) section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint arrangements.

SUMMARY OF APPLICATION: Applicants request an order that would supersede an existing order permitting certain registered investment companies to participate in a joint lending and borrowing facility.

APPLICANTS: Price Blue Chip Growth Fund, Inc., T. Rowe Price Capital Appreciation Fund, T. Rowe Price Capital Opportunity Fund, Inc., T. Rowe Price Diversified Small-Cap Growth Fund, Inc., T. Rowe Price Dividend Growth Fund, Inc., T. Rowe Price Equity Income Fund, T. Rowe Price Equity Series, Inc., T. Rowe Price Equity Income Portfolio, T. Rowe Price Mid-Cap Growth Portfolio, T. Rowe Price New America Growth Portfolio, T. Rowe Price Personal Strategy Balanced Portfolio, T. Rowe Price Financial Services Fund, Inc., T. Rowe Price Growth & Income Fund, Inc., T. Rowe Price Growth Stock Fund, Inc., T. Rowe Price Health Sciences Fund, Inc., T. Rowe Price Index Trust, Inc., T. Rowe Price Equity Index 500 Fund, T. Rowe Price Extended Equity Market Index Fund, T. Rowe Price Total Equity Market Index Fund, Institutional International Funds, Inc., Foreign Equity Fund, T. Rowe Price International Funds, Inc., T. Rowe Price International Discovery Fund, T. Rowe Price International Stock Fund, T. Rowe Price European Stock Fund, T. Rowe Price New Asia Fund, T. Rowe Price Japan Fund, T. Rowe Price Latin America Fund, T. Rowe Price Emerging Markets Stock Fund, T. Rowe Price Global Stock Fund, T. Rowe Price International Bond Fund, T. Rowe Price Global Government Bond Fund, T. Rowe Price Emerging Markets Bond Fund, T. Rowe Price International Series, Inc., T. Rowe Price International Stock Portfolio, T. Rowe Price Mid-Cap Growth Fund, Inc., T. Rowe Price Mid-Cap Value Fund, Inc., T. Rowe Price New America Growth Fund, T. Rowe Price New Era Fund, Inc., T. Rowe Price New Horizons Fund, Inc., T. Rowe Price Real Estate Fund, Inc., T. Rowe Price Small Cap Stock Fund, Inc., T. Rowe Price Small Cap Stock Fund, T. Rowe Price Science & Technology Fund, Inc., T. Rowe Price Small-Cap Value Fund, Inc., T. Rowe Price Spectrum Fund, Inc., Spectrum Growth Fund, Spectrum Income Fund, Spectrum International Fund, T. Rowe Price Value Fund, Inc., T. Rowe Price Media & Telecommunications Fund, Inc., T. Rowe Price California Tax-Free Income Trust, California Tax-Free Bond Fund, California Tax-Free Money Fund, T. Rowe Price Corporate Income Fund, Inc., T. Rowe Price Fixed Income Series, Inc., T. Rowe Price Limited-Term Bond Portfolio, T. Rowe Price Prime Reserve Portfolio, T. Rowe Price GNMA Fund, T. Rowe Price High Yield Fund, Inc., T. Rowe Price New Income Fund, Inc., T. Rowe Price Personal Strategy Funds, Inc., T. Rowe Price Personal Strategy Balanced Fund, T. Rowe Price Personal Strategy Growth Fund, T. Rowe Price Personal Strategy Income Fund, T. Rowe Price Prime Reserve Fund, Inc., Reserve Investment Funds, Inc., Government Reserve Investment Fund, Reserve Investment Fund, T. Rowe Price Short-Term Bond Fund, Inc., T. Rowe Price Short-Term U.S. Government Fund, Inc., T. Rowe Price Tax Efficient Fund, Inc., T. Rowe Price Tax-Efficient Balanced Fund, T. Rowe Price Tax-Efficient Growth Fund, T. Rowe Price State Tax-Free Income Trust, Maryland Tax-Free Bond Fund, Maryland Short-Term Tax-Free Bond Fund, New York Tax-Free Bond Fund, New York Tax-Free Money Fund, Virginia Tax-Free Bond Fund, Virginia Short-Term Tax-Free Bond Fund, New Jersey Tax-Free Bond Fund, Georgia Tax-Free bond Fund, Florida Insured Intermediate Tax-Free Fund, T. Rowe Price Summit Funds, Inc., T. Rowe Price Summit Cash Reserves Fund, T. Rowe Price Summit Limited-Term Bond Fund, T. Rowe Price Summit GNMA Fund, T. Rowe Price Summit Municipal Funds, Inc., T. Rowe Price Summit Municipal Money Market Fund, T. Rowe Price Summit Municipal Intermediate Fund, T. Rowe Price Summit Municipal Income Fund, T. Rowe Price Tax-Exempt Money Fund, Inc., T. Rowe Price Tax-Free High Yield Fund, Inc., T. Rowe Price Tax-Free Income Fund, Inc., T. Rowe Price Tax-Free Insured Intermediate Bond Fund, Inc., T. Rowe Price Tax-Free Short-Intermediate Fund, Inc., T. Rowe Price U.S. Treasury Funds, Inc., U.S. Treasury Intermediate Fund, U.S. Treasury Long-Term Fund, U.S. Treasury Money Fund, Institutional Domestic Equity Funds, Inc., and Mid-Cap Equity Growth Fund (collectively, the '''Price Funds''); T. Rowe Price Associates, Inc. (''T. Rowe Price'') and Rowe Price-Fleming International, Inc. (''Price-Fleming''); and all other registered investment companies and their series that are advised or subadvised by T. Rowe Price or Price-Fleming or a person controlling, controlled by, or under common control with T. Rowe Price or Price-Fleming, and all other registered investment companies and their series for which T. Rowe Price or Price-Fleming in the future acts as an investment adviser or subadviser, other than funds which are

not sponsored by T. Rowe Price or Price-Fleming (together with the Price Funds, the ''Funds'' or the ''Price Funds'').

FILING DATES: The application was filed on July 21, 1999, and amended on October 6, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 22, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, DC 20549–0609. Applicants, T. Rowe Price Associates, Inc., 100 E. Pratt Street, Baltimore, Maryland 21202.

FOR FURTHER INFORMATION CONTACT: J. Amanda Machen, Senior Counsel, (202) 942–7120, or Mary Kay Frech, Branch Chief, (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 5th Street, N.W., Washington, DC, 20549–0102 (tel. 202–942–8090).

Applicants' Representations

1. Each Price Fund is registered under the Act as an open-end management investment company and is organized either as a Maryland corporation or a Massachusetts business trust. Additional funds or series may be added in the future.[1] T. Rowe Price and Price Fleming (together, ''Price'') are registered under the Investment Advisers Act of 1940, and serve as investment advisers to the Price Funds. T. Rowe Price also provides the Price Funds with certain administrative services. Each Fund has entered into an investment advisory agreement with Price under which Price exercises discretionary authority to purchase and sell securities for the Funds.

2. Under an existing order, the Price Funds (other than the municipal funds) can use their cash reserves to purchase shares of the Reserve Investment Funds, Inc. (''Reserve Investment Funds'').[2] There are two series of the Reserve Investment Funds and each is a money market fund that complies with rule 2a-7 under the Act.[3] Each manages the cash reserves of T. Rowe Price clients, principally the Price Funds, and neither is offered to the public. T. Rowe Price receives no compensation for managing the Reserve Investment Funds.

3. Applicants have an existing SEC order that permits the Price Funds to participate in a joint lending and borrowing facility (the ''Original Order'').[4] T. Rowe Price administers the credit facility under its existing advisory agreements with the Funds, and does not receive any additional compensation for this service. Applicants request an order that would supersede the Original Order.

4. Applicants state that the credit facility permits the Price Funds to lend money to each other for temporary purposes, such as when redemptions exceed anticipated levels. The credit facility can reduce substantially the Price Funds' borrowing costs and enhance their ability to earn higher rates of interest on investment of their short-term cash balances. While bank borrowings are a source of liquidity pending the sale and settlement of portfolio securities, the rates charged under the credit facility are normally below those offered by banks on short-term loans, and Price Funds making loans through the credit facility are able to earn interest at a rate higher than they could obtain from investing their cash in short-term repurchase agreements or, for the Price Funds that invest in them, the Reserve Investment Fund and the Government Reserve Investment Fund.

5. When the Price Funds lend money to and borrow money from each other through the credit facility (''Interfund Loans''), interest rates (''Interfund Loan Rates'') are based on the average of the highest rate available to the Reserve Investment Funds from investments in overnight repurchase agreements (the ''Repo Rate'') and a benchmark rate established periodically by the directors or trustees (''Directors'') of each Price Fund to approximate the lowest interest rate at which bank short-term loans would be available to the Funds (the ''Bank Loan Rate'').

6. T. Rowe Price's fund accounting and treasury departments (collectively, the ''Credit Facility Team'') make cash available for Interfund Loans only if: (a) the Interfund Loan Rate is more favorable to the lending Fund than the Repo Rate and, for the Funds that invest in them, the yield on the Reserve Investment Fund or the Government Reserve Investment Fund, and (b) more favorable to the borrowing Fund than the Bank Loan rate.

7. T. Rowe Price on each business day collects data on the uninvested cash and borrowing requirements of all participating Funds from the Funds' custodians. T. Rowe Price will not solicit cash for loans from any Funds or publish or disseminate the amount of current borrowing demand to portfolio managers. Once it determines the aggregate amount of cash available for loans and borrowing demand, the Credit Facility Team allocates loans among borrowing Funds without any further communication from portfolio managers. The Credit Facility Team allocated borrowing demand and cash available for lending among the Funds on what the Team believes to be an equitable basis, subject to certain administrative procedures applicable to all Funds, such as the time of filing requests to participate, minimum loan lot sizes, and the need to minimize the number of transactions and associated administrative costs. After allocating cash for Interfund Loans, T. Rowe Price will invest any remaining cash in accordance with the standing instructions from portfolio managers or return remaining amounts to the Funds.

8. A Fund's participation in the credit facility must be consistent with its investment policies and limitations and organizational documents.[5] The money market Funds typically would not participate as borrowers because they rarely need to borrow cash to meet redemptions.

9. Except as noted above, the prospectus of each Price Fund discloses that the Funds may borrow money and lend securities and other assets. The

[1] All existing Funds that currently intend to rely on the order have been named as applicants, and any other existing or future Fund that subsequently may rely on the order will comply with the terms and conditions in the application.

[2] Reserve Investment Funds, Inc., Investment Company Act Release Nos. 22732 (July 2, 1997) (notice) and 22770 (July 29, 1997) (order).

[3] The Reserve Investment Fund invests in a variety of taxable money market instruments, and the Government Reserve Investment Fund invests only in money market securities backed by the full faith and credit of the U.S. government and fully collateralized repurchase agreements on those securities.

[4] T. Rowe Price Associates, Inc., Investment Company Act Release Nos. 23532 (Nov. 12, 1998) (notice) and 23590 (Dec. 8, 1998) (order).

[5] The T. Rowe Price Spectrum Funds, Inc. (the ''Spectrum Funds''), all municipal Funds, and all Funds that invest only in full faith and credit obligations of the U.S. government do not participate as lenders under the credit facility because that would be inconsistent with their investment program.

Statement of Additional Information (''SAI'') for the Price Funds also discloses the interfund lending arrangements.

10. Applicants seek to amend the Original Order to reduce certain administrative burdens associated with the credit facility and give participating Funds greater flexibility consistent with the purposes of the credit facility and investor protection. Applicants state that the anticipated benefits of the Original Order may not be realized because of administrative burdens and related costs of complying with certain conditions of the Original Order. Applicants assert that modifying these conditions would benefit both those Funds that are borrowers and those Funds that are lenders.

11. Applicants seek to modify the condition in the Original Order that permitted an equity, taxable bond, or money market fund to lend through the credit facility only if the Fund's aggregate outstanding loans through the credit facility do not exceed 5%, 7.5%, and 10%, respectively, of the Fund's net assets at the time of the loan. Applicants seek to permit any type of Fund to make loans through the credit facility up to 15% of its current net assets at the time of the loan. Applicants state that the percentage limitations in the Original Order created artificial distinctions that are not related to a Fund's particular circumstances and unnecessarily restrict a Fund's ability to effectively manage its cash balances. Applicants further state that, if a Fund has large cash balances, its ability to invest the cash at a more attractive rate should not be limited unnecessarily.

12. Applicants also seek to remove the condition in the Original Order that provided that a Fund's borrowing through the credit facility will not exceed 125% of the Fund's total net cash redemptions for the preceding seven calendar days. Applicants assert that this condition is difficult to monitor and ineffective. Applicants state that the condition was designed to protect the Funds from the dangers of borrowing for investment, and the resulting leverage, especially in a declining securities market. Applicants assert that this condition may be ineffective in addressing a Fund's need for cash in the case of unanticipated levels of redemption (such as in the event of a sharp market correction). Applicants also assert that the condition may not necessarily prevent a Fund from borrowing for investment. Applicants state that each Fund's fundamental investment limitations provide that Fund borrowings be for non-leveraging purposes and temporary or emergency in nature. Applicants contend that this fundamental policy is a more effective safeguard that will prevent inappropriate use of the credit facility. Applicants propose as a condition to the requested order that each Fund borrowing through the facility have this fundamental policy.

Applicants' Legal Analysis

1. Section 17(a)(3) generally prohibits any affiliated person, or affiliated person of an affiliated person, from borrowing money or other property from a registered investment company. Section 21(b) generally prohibits any registered management investment company from lending money or other property to any person if that person controls or is under common control with the company. Section 2(a)(3)(C) of the Act defines an ''affiliated person'' of another person, in part, to be any person directly or indirectly controlling, controlled by, or under common control with, the other person. Applicants state that the Funds may be under common control by virtue of having Price as their common investment adviser, and because of the overlap of Directors and officers of the Funds.

2. Section 6(c) provides that an exemptive order may be granted where an exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) provided that the terms of the transaction, including the consideration to be paid or received, are fair and reasonable and do not involve overreaching on the part of any person concerned, and the transaction is consistent with the policy of the investment company as recited in its registration statement and with the general purposes of the Act. Applicants believe that the proposed arrangements satisfy these standards for the reasons discussed below.

3. Applicants submit that sections 17(a)(3) and 21(b) of the Act were intended to prevent a person with strong potential adverse interests to and some influence over the investment decisions of a registered investment company from causing or inducing the investment company to engage in lending transactions that unfairly inure to the benefit of that person and that are detrimental to the best interests of the investment company and it shareholders. Applicants assert that the proposed credit facility transactions do not raise these concerns because (i) Price would administer the program as a disinterested fiduciary; (ii) All Interfund Loans would consist only of uninvested cash reserves that the Fund otherwise would invest in short-term repurchase agreements or other short-term instruments either directly or through the Reserve Investment Funds; (iii) The Interfund Loans would not involve a greater risk than other similar investments; (iv) The lending Fund would receive interest at a rate higher than it could obtain through other similar investments; and (v) The borrowing Fund would pay interest at a rate lower than otherwise available to it under its bank loan agreements and avoid the up-front commitment fees associated with committed lines of credit. Moreover, applicants believe that the other conditions in the application would effectively preclude the possibility of any Fund obtaining an undue advantage over any other Fund.

4. Section 17(a)(1) generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling any securities or other property to the company. Section 12(d)(1) of the Act generally makes it unlawful for a registered investment company to purchase or otherwise acquire any security issued by any other investment company except in accordance with the limitations set forth in that section. Applicants believe that the obligation of a borrowing Fund to repay an Interfund Loan may constitute a security under sections 17(a)(1) and 12(d)(1). Section 12(d)(1)(J) provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent such exception is consistent with the public interest and the protection of investors. Applicants content that the standards under sections 6(c), 17(b) and 12(d)(1) are satisfied for all the reasons set forth above in support of their request for relief from sections 17(a)(3) and 21(b) and for the reasons discussed below.

5. Applicants state that section 12(d) was intended to prevent the pyramiding of investment companies in order to avoid duplicative costs and fees attendant upon multiple layers of investment companies. Applicants submit that the proposed credit facility does not involve these abuses. Applicants note that there would be no duplicative costs or fees to the Funds or shareholders, and that Price would receive no additional compensation for its services in administering the credit facility. Applicants also note that the purpose of the proposed credit facility is to provide economic benefits for all the participating Funds.

6. Section 18(f)(1) prohibits open-end investment companies from issuing any senior security except that a company is permitted to borrow from any bank, if immediately after the borrowing, there is an asset coverage of at least 300 percent for all borrowings of the company. Under section 18(g) of the Act, the term ''senior security'' includes any bond, debenture, note, or similar obligation or instrument constituting a security and evidencing indebtedness. Applicants request exemptive relief from section 18(f)(1) to the limited extent necessary to implement the credit facility (because the lending Funds are not banks).

7. Applicants believe that granting relief under section 6(c) is appropriate because the Funds would remain subject to the requirement of section 18(f)(1) that all borrowings of the Fund, including combined credit facility and bank borrowings, have at least 300% asset coverage. Based on the conditions and safeguards described in the application, applicants also submit that to allow the Funds to borrow from other Funds pursuant to the proposed credit facility is consistent with the purposes and policies of section 18(f)(1).

8. Section 17(d) and rule 17d–1 generally prohibit any affiliated person of a registered investment company, or affiliated person of an affiliated person, when acting as principal, from effecting any joint transaction in which the company participates unless the transaction is approved by the SEC. Rule 17d–1 provides that in passing upon applications for exemptive relief from section 17(d), the SEC will consider whether the participation of a registered investment company in a joint enterprise on the basis proposed is consistent with the provisions, policies, and purposes of the Act and the extent to which the company's participation is on a basis different from or less advantageous than that of other participants.

9. Applicants submit that the purpose of section 17(d) is to avoid overreaching by and unfair advantage to investment company insiders. Applicants believe that the credit facility is consistent with the provisions, policies and purposes of the Act in that it offers both reduced borrowing costs and enhanced returns on loaned funds to all participating Funds and their shareholders. Applicants note that each Fund would have an equal opportunity to borrow and lend on equal terms consistent with its investment policies and fundamental investment limitations. Applicants therefore believe that each Fund's participation in the credit facility will be on terms which are no different from or less advantageous than that of other participating Funds.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. The interest rates to be charged to the Funds under the credit facility will be the average of the Repo Rate and the Bank Loan Rate.

2. On each business day, Price will compare the Bank Loan Rate with the Repo Rate and will make cash available for Interfund Loans only if the Interfund Loan Rate is (a) more favorable to the lending Fund than the Repo Rate and the yield on the Reserve Investment Fund (for Price Funds which invest in that Fund) and the yield on the Government Reserve Investment Fund (for Price Funds which invest in that Fund), and (b) more favorable to the borrowing Fund than the Bank Loan Rate.

3. If a Fund has outstanding borrowings, any Interfund Loans to the Fund (a) will be at an interset rate equal to or lower than any outstanding bank loan, (b) will be secured at least on an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding bank loan that requires collateral, (c) will have a maturity no longer than any outstanding bank loan (and in any event not over seven days), and (d) will provide that, if an event of default occurs under any agreement evidencing an outstanding bank loan to the Fund, that event of default will automatically (without need for action or notice by the lending Fund) constitute an immediate event of default under the Interfund Lending Agreement entitling the lending Fund to call the Interfund Loan (and exercise all rights with respect to any collateral) and that such call will be made if the lending bank exercises its right to call its loan under its agreement with the borrowing Fund.

4. A Fund may make an unsecured borrowing through the credit facility if its outstanding borrowings from all sources immediately after the interfund borrowing total less than 10% of its total assets, provided that if the Fund has a secured loan outstanding from any other lender, including but not limited to another Fund, the Fund's interfund borrowing will be secured on at least an equal priority basis with at least an equivalent percentage of collateral to loan value as any outstanding loan that requires collateral. If a Fund's total outstanding borrowings immediately after interfund borrowing would be greater than 10% of its total assets, the Fund may borrow through the credit facility on a secured basis only. A Fund may not borrow through the credit facility or from any other source if its total outstanding borrowings immediately after the interfund borrowing would be more than 33⅓% of its total assets, or such lesser amount permitted under the Fund's fundamental policies.

5. Before any Fund that has outstanding interfund borrowings may, through additional borrowings, cause its outstanding borrowings from all sources to exceed 10% of its total assets, the Fund must first secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan. If the total outstanding borrowings of a Fund with outstanding Interfund Loans exceeds 10% of its total assets for any other reason (such as decline in net asset value or because of shareholder redemptions), the Fund will within one business day thereafter: (a) repay all its outstanding Interfund Loans, (b) reduce its outstanding indebtedness to 10% or less of its total assets, or (c) secure each outstanding Interfund Loan by the pledge of segregated collateral with a market value at least equal to 102% of the outstanding principal value of the loan until the Fund's total outstanding borrowings cease to exceed 10% of its total assets, at which time the collateral called for by this condition (5) shall no longer be required. Until each Interfund Loan that is outstanding at any time that a Fund's total outstanding borrowings exceeds 10% is repaid or the Fund's total outstanding borrowings cease to exceed 10% of its total assets, the Fund will mark the value of the collateral to market each day and will pledge such additional collateral as is necessary to maintain the market value of the collateral that secures each outstanding Interfund Loan at least equal to 102% of the outstanding principal value of the loan.

6. No Fund may lend to another Fund through the credit facility if the loan would cause its aggregate outstanding loans through the credit facility to exceed 15% of its current net assets at the time of the loan.

7. A Fund's Interfund Loans to any one Fund shall not exceed 5% of the lending Fund's net assets.

8. The duration of Interfund Loans will be limited to the time required to receive payment for securities sold, but in no event more than seven days. Loans effected within seven days of each other will be treated as separate loan transactions for purposes of this condition.

9. Each Interfund Loans may be called on one business day's notice by the lending Fund and may be repaid on any day by the borrowing Fund.

10. A Fund's participation in the credit facility must be consistent with its investment policies and limitations and organizational documents. No Fund may borrow through the credit facility unless the Fund has a fundamental policy that required Fund borrowings to be for non-leveraging purposes and temporary or emergency in nature.

11. T. Rowe Price's Credit Facility Team will calculate total Fund borrowing and lending demand through the credit facility, and allocate loans on an equitable basis among the Funds without the intervention of any portfolio manager of the Funds. The Credit Facility Team will not solicit cash for the credit facility from any Fund or prospectively publish or disseminate loan demand data to portfolio managers. T. Rowe price will invest any amounts remaining after satisfaction of borrowing demand in accordance with the standing instructions from portfolio managers or return remaining amounts to the Funds.

12. T. Rowe Price will monitor the interest rates charged and the other terms and conditions of the Interfund Loans and will make a quarterly report to the Directors concerning the participation of Funds in the credit facility and the terms and other conditions of any extensions of credit under the facility.

13. The Directors of each Fund, including a majority of Directors who are not ''interested persons'' of the Fund as the term is defined in section 2(a)(19) of the Act: (a) will review no less frequently than quarterly the Fund's participation in the credit facility during the preceding quarter for compliance with the conditions of any order permitting the transactions; (b) will establish the Bank Loan Rate formula used to determine the interest rate on Interfund Loans and review no less frequently than annually the continuing appropriateness of the Bank Loan Rate formula; and (c) will review no less frequently than annually the continuing appropriateness of the Fund's participation in the credit facility.

14. In the event an Interfund Loan is not paid according to its terms and the default is not cured within two business days from its maturity or from the tie the lending Fund makes a demand for payment under the provisions of the Interfund Lending Agreement, T. Rowe Price will promptly refer the loan for arbitration to an independent arbitrator selected by the Directors of any Funds involved in the loan who will serve as arbitrator of disputes concerning Interfund Loans.[6] The arbitrator will resolve any problem promptly, and the arbitrator's decision will be binding on both Funds. The arbitrator will submit, at least annually, a written report to the Directors setting forth a description of the nature of any dispute and the actions taken by the Funds to resolve the dispute.

15. Each Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any transaction under the credit facility occurred, the first two years in an easily accessible place, written records of all such transactions setting forth a description of the terms of the transaction, including the amount, the maturity, and the rate of interest on the loan, the rate of interest available at the time on short-term repurchase agreements and bank borrowings, and such other information presented to the Fund's Directors in connection with the review required by conditions 13 and 14.

16. T. Rowe Price will prepare and submit to the Directors for review an initial report describing the operations of the credit facility and the procedures to be implemented to ensure that all Funds are treated fairly. After commencement of operations of the credit facility, T. Rowe Price will report on the operations of the credit facility at the Directors' quarterly meetings.

In addition, for two years following the commencement of the credit facility, the independent public accountant for each Fund that is a registered investment company shall prepare an annual report that evaluates Price's assertion that it has established procedures reasonably designed to achieve compliance with the conditions of the order. The report shall be prepared in accordance with the Statements on Standards for Attestation Engagements No. 3 and it shall be filed pursuant to Item 77Q3 of Form N–SAR. In particular, the report shall address procedures designed to achieve the following objectives: (a) That the Interfund Rate will be higher than the Repo Rate and, if applicable the yield of the Reserve Investment Funds, but lower than the Bank Loan Rate: (b) compliance with the collateral requirements as set forth in the application: (c) compliance with the percentage limitations on interfund borrowing and lending; (d) allocation of interfund borrowing and lending demand in an equitable manner and in accordance with procedures established by the Directors; and (c) that the interest rate on any Interfund Loan does not exceed the interest rate on any third party borrowings of a borrowing Fund at the time of the Interfund Loan.

After the final report is filed, the Fund's external auditors, in connection with their Fund audit examinations, will continue to review the operation of the credit facility for compliance with the conditions of the application and their review will form the basis, in part, of the auditor's report on internal accounting controls in Form N–SAR.

17. No Fund will participate in the credit facility upon receipt of requisite regulatory approval unless it has fully disclosed in its SAI all material facts about its intended participation.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–28871 Filed 11–3–99; 8:45 am]

BILLING CODE 8010–01–M

[6] If the dispute involves Funds with separate Boards of Directors, the Directors, the Direction of each Fund will select an independent arbitrator that is satisfactory to each Fund.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42067; File No. SR–Amex-99–44]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Revised Equity Fee Schedule and Specialist Commissions

October 28, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 22, 1999, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to: (1) amend the Amex Equity Fee Schedule for certain orders entered electronically

[1] 15 USC 78s(b)(1).

[2] 17 CFR 240.19b–4.

into the Amex Order File [3] from off the floor of the Amex (''System Orders''); (2) eliminate specialist commissions on certain System Orders; and (3) implement a program of revenue sharing with exchange specialists. The text of the proposed rule change is available at the Office of the Secretary, the Amex, and at the Commission.

II. Self-Regulatory organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Equity Fee Schedule

The Amex Equity Fee Schedule currently imposes transaction charges on equity orders entered on the Exchange which include both a share-based charge (total shares per month) and a value-based charge (total gross dollar value per month). These charges are not imposed on System Orders up to 1,099 shares except for that System Orders of a member or member organization trading as an agent for the account of a non-member competing market maker. System Orders less than or equal to 1,099 shares of a member or member organization trading as an agent for the account of a non-member competing market maker are subject to transaction charges. In addition, the Exchange imposes a regulatory fee for orders in equities with the exception of certain trades executed in SPDRs®, Select Sector SPDRs®MidCap SPDRs™, DIAMONDS®, and Nasdaq-100 Shares.™

The Exchange is amending the Amex Equity Fee Schedule to provide that certain System Orders up to 2,099 shares will not be assessed a share or value charge. This provision does not apply to the System Orders of a member or member organization trading as an agent for the account of a non-member competing market maker. In addition, the revised Equity Fee Schedule also provides that System Orders for up to 2,099 shares will not be assessed a regulatory fee, except for the System Orders of a member or member organization trading as an agent for the account of a non-member competing market maker.

The Exchange imposes a separate fee schedule for executing trades in Exchange-traded fund products. This fee schedule currently applies to SPDRs, MidCap SPDRs, DIAMONDS, Select Sector SPDRs, and the Nasdaq-100® Index Trust.[4] The Amex proposes to revise the separate fee schedule for exchange-traded fund products to apply it to all Portfolio Depositary Receipts, Index Fund Shares and Trust Issued Receipts traded on the Exchange,[5] as well as those that commence trading in the future. Thus, World Equity Benchmark Shares™ (''WEBS™''), for example, which currently are traded on the Exchange, will become subject to the separate fee schedule.

Currently, all trades executed on the Amex in SPDRs, MidCap SPDRs, DIAMONDS, Select Sector SPDRs, and Nasdaq-100 Shares are exempt from the Amex's regulatory fee, except for System Orders of a member or member organization trading as agent for the account of a non-member competing market maker. Under the new Equity Fee Schedule, all trades on the Exchange in Portfolio Depositary Receipts, Index Fund Shares and Trust Issued Receipts will be exempt from the regulatory fee, except for System Orders of a member or member organization trading as agent for the account of a non-member competing market maker.

The Exchange anticipates that the revised Equity Fee Schedule will become effective as of November 1, 1999. In the event that the Exchange has not implemented system changes to permit billing under the new schedule by November 1, 1999, members and member organizations will continue to be billed under the previous schedule but, after implementation of the revised billing system, will receive a credit for the excess amount billed. The Exchange will issue an Information Circular to members and member organizations regarding the revised schedule prior to its implementation.

Elimination of Specialist Commissions

In conjunction with implementation of the revised Equity Fee Schedule described above, the Amex is implementing a policy to eliminate specialist commissions for System Orders up to 2,099 shares, *i.e.,* orders entered electronically into the Amex Order File from off the Amex floor. System Orders greater than 2,099 shares, manually delivered orders, and all orders in Portfolio Depositary Receipts, Index Fund Shares and Trust Issued Receipts will continue to be subject to applicable specialist commissions. In addition, System Orders up to 2,099 shares of a member or member organization trading as an agent for the account of a non-member competing market maker will continue to be subject to specialist commissions. This policy will be implemented on the date of implementation of the revised Equity Fee Schedule.

The elimination of specialist commissions for System Orders of less than 2,099 shares will reduce the cost of executions on the Amex, with the aim of attracting additional order flow, and, in particular, small sized retail orders, to the Exchange. The lower cost of executions is intended to improve the cost competitiveness of Amex executions, which the Amex believes will inure to the benefit of investors and institutions as well as members and member organizations.

Exchange Revenue Sharing

In order to offset the specialists' loss of commissions, the Exchange is instituting a program of revenue sharing with Exchange specialists. Revenue sharing payments to specialists will be made from the Exchange's general revenues and will not be limited to a particular revenue source. The applicable rate for revenue sharing will be calculated on the basis of average daily Amex (not consolidated) trading volume, excluding Portfolio Depositary Receipts, Index Fund Shares and Trust Issued Receipts, and based on the following incremental rates per 100 shares:

Average daily volume (millions)	Rate per 100 shares
Up to 40	$.25
From 40 to 60	.23
From 60 to 80	.20
Over 80	.18

The applicable rate(s) will be calculated monthly. Payments on

[3] The Amex Order File, previously referred to as the Post Execution Report (''PER'') system provides member firms with the means to electronically transmit equity orders, up to volume specified by the Amex, directly to a specialist's post on the trading floor of the Amex.

[4] *See* Securities Exchange Act Release No. 40881 (January 4, 1999), 64 FR 1836 (January 12, 1999) (notice of filing and immediate effectiveness of File No. SR–Amex–98–46).

[5] The Commission approved Amex's listing of Trust Issued Receipts in Securities Exchange Act Release No. 41892 (September 21, 1999), 64 FR 188 (September 29, 1999) (order approving File No. SR–Amex–99–20).

qualified orders will be made monthly in arrears to qualifying specialists at a rate calculated as a single weighted average rate based on volume for the month most recently ended. A qualifying specialists is an equity specialist. Qualifying orders are certain orders delivered electronically from off the floor of the Exchange, excluding all orders for Portfolio Depositary Receipts, Index Fund Shares, and Trust Issued Receipts. System Orders up to 2,099 shares of a member or member organization trading as an agent for the account of a non-member competing market maker will not be subject to revenue sharing.

In its pending filing with the Commission relating to the Exchange's proposed New Equity Market Structure,[6] the Exchange has stated that specialists will not be permitted to charge commissions upon the execution of orders delivered electronically from off the floor for securities traded under the New Equity Market Structure. Specialists would continue to be able to charge floor brokerage on manually delivered orders and could charge a fee on hand delivered orders when acting as principal if the member leaving the order consents. In addition, following the implementation of the New Equity Market Structure, the Amex will share Exchange revenue with specialists based on a specified rate schedule to effectively offset the specialists' loss of floor brokerage with respect to orders delivered electronically from off the floor. The elimination of specialist commissions and the Exchange's revenue sharing initiative that are the subject of the instant filing are independent from and not conditioned upon implementation of the New Equity Market Structure.

2. Statutory Basis

The Amex believes that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(4) in particular in that it is intended to assure the equitable allocation of reasonable dues, fees and other charges among members, issuers, and other persons using the Exchange facilities.[7]

[6] *See* Securities Exchange Act Release No. 41527 (June 15, 1999), 64 FR 33533 (June 23, 1999) (notice of filing of File No. SR–Amex–99–08).

[7] The Commission notes that the filing may raise questions concerning payment for order flow. To the extent that it does raise such issues, Exchange members should consider any associated disclosure obligations, namely pursuant to Rules 10b–10 and 11Ac1–3 under the Act, 17 CFR 240.10b–10 and 17 CFR 240.11Ac1–3, respectively.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change, which establishes or changes a due, fee, or other charge imposed by the Exchange, has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and subparagraph (f)(2) of Rule 19b–4 thereunder.[9]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing including whether the proposed rule is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–99–44 and should be submitted by November 26, 1999.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2). In reviewing the proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 USC 78c(f).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–28872 Filed 11–3–99; 8:45 am]

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[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42073; File No. SR–NASD–99–62]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 to the Proposed Rule Change by the National Association of Securities Dealers, Inc., Relating to Trade Reporting of Listed Securities

October 28, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 20, 1999, the National Association of Securities Dealers, Inc. (''NASD''), through its wholly-owned subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by Nasdaq. On October 28, 1999, Nasdaq filed an amendment to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons, and to grant accelerated approval to the proposed rule change, as amended, on a pilot basis through March 1, 2000.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Thomas P. Moran, Assistant General Counsel, Nasdaq, to Belinda Blaine, Associate Director, Division of Market Regulation, SEC, dated October 28, 1999 (''Amendment No. 1''). In Amendment No. 1, Nasdaq changes the start date for mandatory 90-second trade reporting for listed securities from October 25, 1999 to November 15, 1999. Nasdaq also notes it will make available its ITS/CAES system until 6:30 pm. Eastern Time beginning on or about October 29, 1999. Finally, Nasdaq states it will coordinate with both the New York Stock Exchange (''NYSE'') and the American Stock Exchange (''AMEX'') regarding the dissemination of material news by those exchanges' listed companies during the 4:00 p.m. to 6:30 p.m. time period, and will, if appropriate, initiate trading and quotation halts in the Third Market in consultation with those markets.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Act,[4] Nasdaq is filing a proposed rule change to mandate 90-second trade reporting for over-the-counter transactions in listed securities that take place between 4:00 p.m. and 6:30 p.m. Eastern Time. This rule change will conform the trade reporting obligations for transactions involving listed securities with those for Nasdaq National Market, SmallCap, Convertible Debt and over-the-counter equity issues that were amended as part of a separately proposed pilot program extending the availability of several Nasdaq services and facilities until 6:30 p.m. Eastern Time.[5] Below is the text of the proposed rule change. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

6400. Reporting Transactions in Listed Securities

6420. Transaction Reporting

(a) When and How Transactions are Reported

(1) Registered Reporting Members shall transmit through ACT, within 90 seconds after execution, last sale reports of transactions in eligible securities executed during the trading hours of the Consolidated Tape otherwise than on a national securities exchange. Registered Reporting Members shall also transmit through ACT, within 90 seconds after execution, last sale reports of transactions in eligible securities executed in the United States otherwise than on a national securities exchange between 4:00 p.m. and [5:15] *6:30* p.m. Eastern Time. Transactions not reported within 90 seconds after execution shall be designated as late and such trade reports must include the time of execution.

(2) (A) No Change.

(B) Non-registered Reporting Members shall, within 90 seconds after execution, transmit through ACT or the ACT Service Desk (if qualified pursuant to Rule 7010(i), or if ACT if unavailable due to system or transmission failure, by telephone to the Nasdaq Market Operations Department, last sale reports of transactions in eligible securities executed in the United States otherwise than on a national securities exchange between the hours of 4:00 p.m. and [5:15] *6:30* p.m. Eastern Time. Transactions not reported within 90 seconds after execution shall be designated as late and such trade reports must include the time of execution.

(3)(A) All members shall report transactions in eligible securities executed outside the hours of 9:30 a.m. and [5:15] *6:30* p.m. Eastern Time as follows:

(i) by transmitting the individual trade reports through ACT on the next business day (T+1) between 8:00 a.m. and [5:15] *6:30* p.m. Eastern Time;

(ii) No Change; and

(iii) No Change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In Nasdaq's third market, NASD members trade stocks listed on the NYSE and AMEX using Nasdaq's quotation, communication and execution system. The NASD collects quotations from broker-dealers that trade these securities over-the-counter and provides such quotations to the Consolidated Quotation System (''CQS'') for dissemination. Additionally, the NASD collects trade reports to the Consolidated Tape Association (''CTA'') for inclusion in the Consolidated Tape. From 9:30 a.m. to 4:00 p.m. Eastern Time, NASD members registered as CQS market makers use Nasdaq's Computer Assisted Execution System (''CAES'') to access the quotes of other CQS market makers and the Intermarket Trading System (''ITS'') to access the quotes of other U.S. exchanges. Trades executed through Nasdaq's ITS/CAES system are automatically forwarded to ACT for trade reporting purposes. Pursuant to NASD Rule 6340, participation as a CQS market maker between 4:00 p.m. and 6:30 p.m. Eastern Time is strictly voluntary.

In response to requests from Nasdaq CQS market makers that wish to have the option of expanding their trading activity after 4:00 p.m. Eastern Time, Nasdaq has determined to expand, until 6:30 p.m. Eastern Time, the availability of ITS/CAES and ACT services for listed securities effective October 29, 1999. This expansion will be on a pilot basis beginning October 29, 1999 and terminating on March 1, 2000. Participation in the Third Market after 4:00 p.m. Eastern Time will continue to be voluntary.

Currently, NASD rules mandate submission of trade reports in listed securities within 90 seconds after execution only until 5:15 p.m. Eastern Time. In order to conform listed trade reporting obligations with those for Nasdaq National Market, SmallCap, Convertible Debt and over-the-counter equity securities, Nasdaq is proposing to modify its ACT trade reporting rules to require 90-second trade reporting of listed securities until 6:30 p.m. Eastern Time. By extending 90-second listed trade reporting to 6:30 p.m. Eastern Time, the rule will be consistent with the Normal Business Hours of the CQS. In addition, expansion of listed trade reporting obligations to 6:30 p.m. Eastern Time will allow NASD member firms to modify their Nasdaq-related trade reporting programming to the same time parameters. To allow sufficient time for NASD members to modify their internal systems to comply with the expansion of 90-second trade reporting for listed securities, Nasdaq requests that, like its 90-second trade reporting rules for Nasdaq securities, its proposed changes to NASD Rule 6240 not take effect until November 15 1999. All member firms participating in the Third Market are expected, however, to report trades as soon as possible after execution and, to the extent they are able to do so before November 15, 1999, within 90 seconds.

In addition, Nasdaq will make available, on or about October 29, 1999, its ITS/CAES system until 6:30 p.m. Eastern Time. Operation of Nasdaq's ITS/CAES system beyond its current 4:00 p.m. close will be consistent with all rules and procedures that are currently applicable to ITS/CAES trading and quotation activity during the 9:30 a.m. to 4:00 p.m. Eastern Time period.

Finally, Nasdaq has agreed to coordinate with both NYSE and AMEX regarding the dissemination of material news by their listed companies during 4:00 p.m. to 6:30 p.m. Eastern Time, and will, if appropriate, initiate trading and

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[4] 15 U.S.C. 78s(b)(1).

[5] *See* Securities Exchange Act Release No. 42003 (October 13, 1999) (SR–NASD–99–57). In SR–NASD–99–57, Nasdaq proposed, and the SEC approved, the following changes (in italics) to NASD Rule 4617:

4617. Normal Business Hours

A Nasdaq market maker shall be open for business as of 9:30 a.m. Eastern Time and shall close no earlier than 4:00 p.m. Eastern Time. Should a market maker wish to *voluntarily* remain open for business later than 4:00 p.m. Eastern Time, it shall so notify the Nasdaq Market Operations via a Nasdaq terminal and shall close only on the hour or the half hour, but no later than 6:30 p.m. Eastern Time. *Nasdaq market makers whose quotes are open after 4:00 p.m. Eastern Time shall be obligated to comply, wihile their quotes are open, with all NASD Rules that are not by their express terms, or by an official interpretation of the Association, inapplicable to any part of the 4:00 p.m. to 6:30 p.m. Eastern Time period.*

quotation halts in the Third Market in consultation with those markets.

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act[6] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–99–62 and should be submitted by November 26, 1999.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission has reviewed carefully the NASD's proposal,[7] and for the reasons discussed below, finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of Sections 11A and 15A.[8]

Specifically, the Commission finds that the proposed rule change furthers the goals of the national market system as reflected in Sections 11A(a)(1)(C)(iii) and (iv) of the Act.[9] Congress found in those provisions that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities, and to assure the practicability of brokers executing investors' orders in the best market. Section 11A(a)(1) further provides that the linking of all markets for qualified securities through communication and data processing facilities would foster efficiency, enhance competition, increase the information available to brokers, dealers, and investors, facilitate the offsetting of investors' orders, and contribute to best execution of such orders. The proposed rule will make available with respect to listed securities the same trade reporting information currently available for transactions involving Nasdaq National Market, SmallCap, Convertible Debt and over-the-counter equity issues until 6:30 p.m. Eastern Time. The proposed rule will enhance transparency in the after-hours market, allowing investors an opportunity to better evaluate the after-hours market before deciding to participate. Ultimately, the proposed rule should enhance investor protection and confidence, because it will provide more complete information upon which to base trading decisions.

The Commission finds that the proposed rule change is consistent with Section 15A of the Act in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposal accomplishes these objectives by extending to listed securities Nasdaq's systems, so that market participants who choose to offer trading to customers in the after-hours market reap the benefits of greater transparency, and linkage of the various market participants engaged in after-hours trading through ITS/CAES.

Nasdaq has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act[10] for approving the proposed rule change prior to the 30th day after publication in the **Federal Register**. The Commission finds good cause for granting accelerated approval for the proposed rule change because the pilot will benefit investors by improving the transparency of the after-hours market and assisting broker-dealers in fulfilling their duty of best execution for their customer orders.

The Commission further finds that good cause exists for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The first item in Amendment No. 1 merely changes the start date for mandatory 90-second trade reporting for listed securities until 6:30 p.m. Eastern Time from October 25, 1999, to November 15, 1999. The second item in Amendment No. 1 makes Nasdaq's ITS/CAES, system available until 6:30 p.m. Eastern Time beginning on or about October 29, 1999. The filing originally stated that ITS/CASES would not be available until on or about November 8, 1999. Finally, in Amendment No. 1, Nasdaq states it will coordinate with both the NYSE and the AMEX regarding the dissemination of material news by those exchanges' listed companies during 4:00 p.m. to 6:30 p.m. Eastern Time, and will, if appropriate, initiate trading and quotation halts in the Third Market in consultation with those markets. The availability of ITS/CAES during the 4:30 p.m. to 6:30 p.m. Eastern Time period, and the coordination with the NYSE and AMEX regarding trading halts, further ensure investor protection. Accordingly, the Commission believes that there is good cause for accelerating the approval of all of the items in Amendment No. 1.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NASD–99–62), as amended, is approved as a pilot program through March 1, 2000.

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[6] 15 U.S.C. 78o–3(b)(6).

[7] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78k–1 and 78o–3.

[9] 15 U.S.C. 78k–1(a)(1)(C)(iii) and (iv).

[10] 15 U.S.C. 78s(b)(2).

[11] *Id.*

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–28874 Filed 11–3–99; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–42068; File No. SR–PCX–99–40]

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by the Pacific Exchange, Inc. Relating to Order Book Officials

October 28, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 8, 1999, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to modify its rules pertaining to the Exchange's Order Book Officials (''OBO'') on the Options Trading Floor by clarifying existing provisions, eliminating superfluous provisions, incorporating current policies and procedures, and deleting certain Option Floor Procedure Advices (''OFPAs'') and incorporating relevant language from the OFPAs into the text of PCX Rule 6. The text of the proposed rule change is available at the Office of the Secretary, the PCX, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend PCX Rule 6 (''Options Trading—Rules Principally Applicable to Trading of Options Contracts''). Specifically, the Exchange proposes to delete the following OFPs: OFPA E–2, Subject: Posting of Market Maker Assignments; OFPA A–4, Subject: Timeliness of Entering Orders in the Book: OFPA B–7, Subject: Issuing a Call for Market Makers and; OFPA G–4, Subject: Transactions Following a Change in the Status of Orders in the Book. The Exchange proposes to delete these OFPAs and to incorporate the relevant language from them into the text of PCX Rule 6. The Exchange believes this will centralize the rules and obligations of OBOs.

The Exchange proposes to add the language of OFPA E–2, regarding the posting of Market Maker assignments, to PCX Rule 6.51(b). The proposal requires that a list of Market Makers holding primary appointments in a particular issue be maintained by the OBO at each trading post where the issue is traded. The Exchange proposes this rule change to clarify and centralize the responsibilities of the OBO and to simplify the process of posting Market Maker assignments. The Exchange proposes to require the OBO to maintain the list of Market Makers holding primary appointments in a particular issue, instead of the Options Floor Manager in cooperation with the Options Appointment Committee, currently required in OFPA E–2, because the Exchange believes that the OBO will be able to maintain such list more easily and quickly.

The Exchange proposes to add the language from OFPA A–4, regarding the timeliness of entering orders in the Book, to PCX Rule 6.52(c). The proposal requires that OBOs report to Floor Officials, instead of the Option Floor Trading Committee, any instances that appear to violate a Floor Brokers' obligation to ensure that the urgency of the need to deal with the Book at a given moment is consistent with the maintenance of a fair and orderly Book market. The Exchange proposes this change because more immediate action may be necessary and can be taken if reported to Floor Official on the Floor when such a violation occurs.

The Exchange proposes to eliminate unnecessary and superfluous language in PCX Rule 6.52, Commentary .01, which states that ''[a]s of the effective date of these Rules, the Committee has not designated any additional types of orders that may be accepted by Order Book Officials.'' The Exchange believes this language is unnecessary given that Commentary .01 states that ''an Order Book Official may only accept such other types of orders that have been designated by the Options Floor Trading Committee.''

The Exchange proposes to change the reference in PCX Rule 6.53 From ''Department of Member Firms'' to ''Options Surveillance Department'' to reflect the current practice regarding where copies of recodes are sent.

To replace of OFPA B–7, regarding when a call for Market Makers is issued, the Exchange proposes to add Commentary .01 to PCX Rule 6.53. Specifically, the Exchange proposes that OBOs should have the responsibility for issuing a call for Markers Makers to come to specified post. Only the OBO may cause this call to be made. In addition, the Exchange proposes that a call for Market Makers be made only after it has been determined that those Market Makers present at the post are not carrying out the functions of Markers as stipulated in PCX Rule 6.37, and not only on the basis of the number of Market Makers present at the post.

The Exchange also proposes that if as few as two Market Makers are present and the OBO determines that an orderly market is being maintained with respect to quote and size, then a call will not be issued merely to bring more Market Makers to the post. However, the provision is not in any way to be taken as limitation on the responsibilities of the OBO to issue such calls for Market Makers as may be necessary to implement the full requirements of PCX Rule 6.37. The Exchange proposes this rule change to centralize OBO obligations regarding the issuing of a call for Market Makers to come to a post in the text of PCX Rule 6.

Finally, the Exchange proposes to clarify language in PCX Rule 6.56 regarding the term ''displayed'' as currently stated in OFPA G–4, Subject: Transactions Following a Change in the Status of Orders in the Book. Specifically, the Exchange proposes to define the term ''displayed,'' as used in PCX Rule 6.56 to include either verbally made known a new bid or offer or having entered the new bid or offer on the quotation screen. The Exchange proposes this rule change to centralize

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

OBO obligations regarding the treatment of transactions outside of the OBO's last quoted range.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b)(5) of the Act [3] because it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

a. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–PCX–99–40 and should be submitted by November 26, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

[FR Doc. 99–28873 Filed 11–3–99; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. 78f(b)(5).

[4] 17 CFR 200.30–3(a)(12)

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: City of Ogden, Weber County, UT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Revised notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will not be prepared for a proposed highway project in the City of Ogden, Weber County, Utah.

FOR FURTHER INFORMATION CONTACT: Tom Allen, Project Development Engineer, Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt Lake City, Utah 84118, Telephone: (801) 963–0078 ext. 229; or Rod Terry, Preconstruction Engineer, Utah Department of Transportation, Region 1, P.O. Box 12580, Ogden, Utah 84412, Telephone (801) 399–5921 ext. 305.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Utah Department of Transportation, have determined that an EIS will not be prepared for the proposal to reconstruct approximately 2 miles of State Road (SR) 79 from east of the existing Interstate 15 interchange to Harrison Boulevard (SR–203), and to widen approximately 1.5 miles of Wall Avenue (SR–204) from approximately 22nd Street to 34th Street in the urban portion of Ogden, Utah. The proposed reconstruction of SR–79 would provide the necessary east-west arterial roadway capacity to meet urban infrastructure needs, and to meet existing and future transportation demand. The widening of SR–204 would provide a uniform roadway width for the north-south arterial roadway and an appropriate roadway capacity for the entrance to the Central Business District of the City of Ogden.

Improvements being considered will have no significant impact on the environment. An environmental assessment is being prepared to evaluate the project impacts.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction is used. The regulations implementing Executive Order 12372 regarding intergovernment consultation on Federal programs and activities apply to this program.)

Michael G. Ritchie,

Division Administrator, Salt Lake City, Utah.

[FR Doc. 99–28942 Filed 11–3–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with 49 CFR 211.41, notice is hereby given that the Metro-North Commuter Railroad (Metro-North) and the Connecticut Department of Transportation (CONNDOT) have submitted a petition, dated June 1, 1999, seeking a waiver of compliance from certain requirements of Title 49, Code of Federal Regulations, Part 220: Railroad Communications. The individual petition is described below, including the parties seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioners' arguments in favor of relief.

Metro-North Commuter Railroad and Connecticut Department of Transportation [Docket No. FRA–1999–5876]

The petition requests that the Federal Railroad Administration (FRA) grant Metro-North and CONNDOT a three-year extension of time past the mandatory compliance date of July 1, 1999, to comply with provisions of 49 CFR 220.9 and 220.11 of the Railroad Communication Standards. Metro-North provides commuter rail service on four lines operating on rights of way owned by CONNDOT. Petitioners have asked to be granted until July 1, 2002 to install working radios on locomotives operating on these territories:

(1) The New Haven Line between Mile Post (MP) 26.1 (the State Line between New York and Connecticut) and MP 72.9;

(2) The New Canaan Branch between MP 0.0 (Stamford, Connecticut) and MP 7.9;

(3) The Danbury Branch between MP 0.0 (South Norwalk, Connecticut) and MP 24.2; and

(4) The Waterbury Branch between MP 0.0 (Devon, Connecticut) and MP 27.1.

Petitioners assert that they need the additional three years to conduct a radio propagation study that will result in a location plan for wayside radio base stations and repeaters.

Interested parties are invited to participate in these proceedings by submitting written views, data or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (in this case, FRA–1999–5876) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC 20590–0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m. to 5 p.m.) at DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street, SW, Washington, DC 20005. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at http://dms.dot.gov.

Issued in Washington, DC on October 25, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–28838 Filed 11–3–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–439 (Sub–No. 4X) and STB Docket No. AB–33 (Sub-No. 139X)]

Dallas Area Rapid Transit—Abandonment Exemption—in Dallas County, TX and Union Pacific Railroad Company—Discontinuance of Service Exemption—in Dallas County, TX

Dallas Area Rapid Transit (DART) and Union Pacific Railroad Company (UP) have filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances* for DART to abandon and UP to discontinue service over a 3.04-mile line of railroad known as the Athens Branch East between milepost 308.80 at Pleasant Drive to the end of the track at milepost 305.76 at Rylie Road, in Dallas County, TX.[1] The line traverses United States Postal Service Zip Codes 75217 and 75253.

DART and UP have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there has been no overhead traffic on the line during the past two years; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on December 4, 1999, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 15, 1999. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 24, 1999, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicants' representatives: Judith H. Caldwell, Oppenheimer Wolff Donnelly & Bayh LLP, 1350 Eye Street, N.W., Suite 200, Washington, DC 20005–3324; and Joseph D. Anthofer, Union Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179–0001.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

DART and UP have filed an environmental report which addresses the effects of the abandonment and discontinuance, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by November 9, 1999. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), DART shall file a notice of consummation with the Board to

[1] DART acquired this line from the Southern Pacific Transportation Company in 1988. *See Dallas Area Rapid Transit—Acquisition and Operation Exemption—Rail Lines of Southern Pacific Transportation Company,* Finance Docket No. 31267 (ICC served May 20, 1988). SPT concurrently acquired trackage rights over the line. *See Southern Pacific Transportation Company—Trackage Rights Exemption—Dallas Area Rapid Transit,* Finance Docket No. 31270 (ICC served May 20, 1988).

The City of Dallas (City) filed a request for issuance of a notice of interim trail use (NITU) for the entire line pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d). The Board will address the City's trail use request, and any others that may be filed in a subsequent decision.

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by DART's filing of a notice of consummation by November 4, 2000, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: October 26, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–28520 Filed 11–3–99; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Treasury Advisory Committee on International Child Labor Enforcement

AGENCY: Department Office, Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces the date and time for the next meeting of the Advisory Committee.

DATES: The next meeting of the Treasury Advisory Committee on International Child Labor Enforcement will be held on Friday November 19, 1999, at 9:30 a.m. in the Secretary's large conference room, Room 3327, U.S. Treasury Department, 1500 Pennsylvania Avenue, NW., Washington, DC. The duration of the meeting will be approximately three hours.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Director, Office of Tariff and Trade Affairs, Office of the Under Secretary (Enforcement), Room 4004, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220. Tel.: (202) 622–0220. The meeting location is subject to change. Final meeting details, including the meeting time, location, and agenda, can be confirmed by contacting the above number one week prior to the meeting date.

SUPPLEMENTARY INFORMATION: The meeting is open to the public; however, participation in the Committee's deliberations is limited to private sector and ex officio Committee members and Customs and Treasury Department staff. A person other than an Advisory Committee member who wishes to attend the meeting should give advance notice by contacting Theresa Manning at (202) 622–0220, no later than November 12, 1999.

Dated: October 29, 1999.

John P. Simpson,

Deputy Assistant Sacretary (Regulatory, Tariff, and Trade Enforcement).

[FR Doc. 99–28806 Filed 11–3–99; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Departmental Offices

International Financial Institution Advisory Commission

AGENCY: Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: Under section 603 of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1999, the International Financial Institution Advisory Commission (the ''Commission'') shall advise and report to the Congress on the future role and responsibilities of the international financial institutions (defined as the International Monetary Fund, International Bank for Reconstruction and Development, European Bank for Reconstruction and Development, International Development Association, International Finance Corporation, Multilateral Investment Guarantee Agency, African Development Bank, African Development Fund, Asian Development Bank, Inter-American Development Bank, and Inter-American Investment Corporation), the World Trade Organization, and the Bank for International Settlements.

DATES: The fifth meeting of the Advisory Commission will continue on November 17, 1999, beginning at 10 a.m. and tentatively ending at 3 p.m. in Room SC5 in the U.S. Capitol, Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Designated Federal Official: William McFadden, Senior Policy Advisor, Office of International Monetary and Financial Policy, Room 4444, Department of the Treasury, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Telephone number 202–622–0343, fax number (202) 622–7664.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

The agenda will focus on continued discussion by the Commission members of IFI's with selected NGO's and trade associations.

Procedural

This meeting is open to the public. Please note that the meeting may close early if all business is finished. Members of the public may submit written comments. If you wish to furnish such comments, please provide 16 copies of your written material to the Designated Federal Official. If you wish to have your comments distributed to members of the Commission in advance of the fifth meeting, 16 copies of any written material should be provided to the Designated Federal Official no later than November 9, 1999.

Dated: October 28, 1999.

Lauren M. Vaughan,

Acting Designated Federal Official.

[FR Doc. 99–28719 Filed 11–3–99; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF THE TREASURY

Bureau of Engraving and Printing

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Engraving and Printing within the Department of the Treasury is soliciting comments concerning the Survey Card.

DATES: Written comments should be received on or before December 14, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Department of Treasury, Bureau of Engraving and Printing, Pamela V. Grayson, 14th & C Streets, SW, Washington, DC 20228, (202) 874–2212.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Department of the Treasury, Bureau of Engraving and Printing, Lorraine Robinson, 14th & C Street, SW., Washington, DC 20228, (202) 874–2532.

SUPPLEMENTARY INFORMATION:

Title: Survey Card.

OMB Number: 1520–0004.

Form Number: BEP 1882–1.

Abstract: The Bureau of Engraving and Printing solicit voluntary feedback

from the public regarding displays at numismatic and philatelic shows and events at which it participates. Feedback will be used o improve both quality and informational content of its displays on the history of currency and associated manufacturing processes.

Type of Review: Extension.

Affected Public: Individuals or households.

Estimated Number of Respondents: 100.

Estimated Total Annual Burden Hours: 8.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: October 14, 1999

Pamela V. Grayson,

Management Analyst.

[FR Doc. 99–28836 Filed 11–3–99; 8:45 am]

BILLING CODE 4840–01–P

Corrections

Federal Register

Vol. 64, No. 213

Thursday, November 4, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC99-598-001; FERC-598]

Information Collection Submitted for Review and REquest for Comments

Correction

In notice document 99–27709 beginning on page 57446 in the issue of October 25, 1999, the docket number should read as set forth above.

[FR Doc. C9–27709 Filed 11–3–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00-24-000]

Transcontinental Gas Pipe Line Corporation; Notice of Filing

Correction

In notice document 99–28022 appearing on page 57872 in the issue of Wednesday, October 27, 1999, the docket number should read as set forth above.

[FR Doc. C9–28022 Filed 11–3–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99-451-002]

Williams Gas Pipelines Central, Inc.; Notice of Filing of Refund Report

Correction

In notice document 99–28019 appearing on page 57872 in the issue of Wednesday, October 27, 1999, the docket number should read as set forth above.

[FR Doc. C9–28019 Filed 11–3–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA # 186P]

Controlled Substances: Proposed Aggregate Production Quotas for 2000

Correction

In notice document 99–27428, beginning on page 56809, in the issue of Thursday, October 21, 1999, make the following correction:

On page 56811, in the table, under Methamphetamine in the 24th line, ''devo-desxyephedine'' should read '' levo-desoxyephedrine''.

[FR Doc. C9–27428 Filed 11–3–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Transport Airplane and Engine Issues—New Task

Correction

In notice document 99–28011 beginning on page 57921, in the issue of Wednesday, October 27, 1999, make the following correction:

On page 57922, in the second column, under the heading **Participation in the Working Group**, in the second paragraph, in the tenth line, after ''be'' add ''received no later than November 30, 1999. The requests will be''.

[FR Doc. C9–28011 Filed 11–3–99; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday
November 4, 1999

Part II

Department of Commerce

International Trade Administration

Final Results of Expedited Sunset Review: Bearings; Notices

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–604]

Final Results of Expedited Sunset Review: Tapered Roller Bearings, Over Four Inches, and Parts Thereof, Finished and Unfinished, From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Expedited Sunset Review: Tapered Roller Bearings, Over Four Inches, and Parts Thereof, Finished and Unfinished, from Japan.

SUMMARY: On April 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping order on tapered roller bearings from Japan (64 FR 15727) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and adequate substantive comments filed on behalf of domestic interested parties and inadequate response (in this case, a waiver) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Darla D. Brown or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3207 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 4, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*'') and 19 CFR 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

The merchandise subject to this antidumping order is tapered roller bearings (''TRBs'') and parts thereof, finished and unfinished, which are flange, take-up cartridge, and hanger units incorporating tapered roller bearings, and tapered roller housings (except pillow blocks), incorporating tapered rollers, with or without spindles, whether or not for automotive use. Products subject to the finding on TRBs, four inches or less in outside diameter (A–588–054) are not included in the scope of this order, except for those manufactured by NTN Corporation. The subject merchandise is currently classifiable under HTS items 8482.20.20, 8482.91.00, 8482.99.30, 8483.20.40, 8483.20.80, 8483.90.20, 8483.90.30, 8483.90.60, and 8484.30.80. While the HTS item numbers are provided for convenience and customs purposes, the written description remains dispositive.

The Department has made two scope rulings with respect to the order. In the first ruling, the Department ruled that green rings which had not been heat-treated are within the scope of the order.[1] The Department also ruled that Koyo's rough forgings, including hot forgings, cold forgings, and tower forgings are within the scope of the order.[2]

History of the Order

On August 17, 1987, the Department published its final determination of sales at less than fair value (''LTFV'') with respect to TRBs from Japan (52 FR 30700). The Department published the antidumping duty order on October 6, 1987 (52 FR 37352).

Over the life of the order, the Department has conducted several administrative reviews.[3]

This sunset review covers imports from all known Japanese producers/exporters.

The Department made a duty absorption finding in the final results of the 1995–96 administrative review.[4]

Background

On April 1, 1999, the Department initiated a sunset review of the antidumping order on TRBs from Japan (64 FR 15727), pursuant to section 751(c) of the Act. The Department received notices of intent to participate on behalf of the Timken Company (''Timken'') and the Torrington

[1] *See* unpublished scope ruling dated May 16, 1989.

[2] *See Final Affirmative Determination in Scope Inquiry on Antidumping Duty Order on Tapered Roller Bearings and Parts Thereof from Japan,* 60 FR 6519 (February 2, 1995).

[3] *See Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan; Final Results of Antidumping Duty Administrative Review,* 56 FR 41508 (August 21, 1991); *Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan; Final Results of Antidumping Duty Administrative Review,* 57 FR 4951 (February 11, 1992); *Tapered Roller Bearings, and Parts Thereof, Finished and Unfinished, from Japan; Final Results of Antidumping Duty Administrative Review,* 57 FR 4960 (February 11, 1992); as amended, *Tapered Roller Bearings, and Parts Thereof, Finished and Unfinished, from Japan; Amendment to Final Results of Antidumping Duty Administrative Review,* 57 FR 9104 (March 16, 1992); *Final Results of Antidumping Duty Administrative Reviews*; *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan,* 58 FR 64720 (December 9, 1993); as amended, *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan,* 59 FR 2594 (January 18, 1994); *Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from Japan; Affirmation of the Results of Redetermination Pursuant to Court Remand,* 59 FR 23828 (May 9, 1994); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Revocation Unfinished, from Japan in Part of an Antidumping Finding,* 61 FR 57629 (November 7, 1996); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part,* 62 FR 11825 (March 13, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews,* 63 FR 2558 (January 15, 1998); as amended, *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Amended Final Results of Antidumping Duty Administrative Reviews,* 63 FR 13391 (March 19, 1998); *Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan, and Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan: Final Court Decisions and Amended Final Results of Antidumping Duty Administrative Reviews,* 63 FR 17815 (April 10, 1998); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part,* 63 FR 20585 (April 27, 1998); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews,* 63 FR 63860 (November 17, 1998).

[4] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews,* 63 FR 2558 (January 15, 1998).

Company (''Torrington''), American NTN Bearing Manufacturing Corporation (''ANBM'') and the NTN Bower Corporation, and Koyo Corporation of the U.S.A.—Manufacturing Division (''KCUM'') on April 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations.* We received complete substantive responses on behalf of Timken and Torrington, ANBM and NTN Bower, and KCUM on May 3, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i).

Timken and Torrington claimed interested party status under 19 U.S.C. 1677(9)(C) as U.S. manufacturers of TRBs. Timken stated that it filed the original petition that led to the antidumping order. In addition, Timken stated that it has participated in all administrative reviews of the order. Torrington, however, stated that it did not participate in the original investigation nor any of the administrative reviews. ANBM and NTN Bower also claimed interested party status under 19 U.S.C. 1677(9)(C) as U.S. manufacturers of a domestic like product. Additionally, ANBM and NTN Bower stated that they are related to a foreign producer/exporter and are importers of subject merchandise. ANBM and/or NTN Bower state that they have participated in every administrative review of the order, with the exception of the 1994–95 annual review. KCUM also claimed interested party status under 19 U.S.C. 1677(9)(C) as a U.S. manufacturer of a domestic like product. KCUM stated that it is a division of Koyo Corporation of U.S.A., a wholly-owned subsidiary of Koyo Seiko Co., Ltd., a producer in Japan of subject merchandise and an importer of subject merchandise. Moreover, KCUM stated that it has participated in all administrative reviews conducted by the Department.

On May 3, 1999, the Department received a waiver from Koyo Seiko Corp., Ltd. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct an expedited, 120-day, review of this order.

On May 12, 1999, the Department received rebuttal comments from ANBM and NTN Bower and Timken and Torrington.[5]

[5] On May 6, 1999, the Department received and granted a request from Timken and Torrington for a two working-day extension of the deadline for filing rebuttal comments in this sunset review. This extension was granted for all participants eligible to file rebuttal comments in this review. The deadline for filing rebuttals to the substantive comments therefore became May 12, 1999.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). On August 5, 1999, the Department determined that the sunset review of the antidumping duty order on TRBs from Japan is extraordinarily complicated, and extended the time limit for completion of the final results of this review until not later than October 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[6]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, interested parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin,* the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.3). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In this instant review, the Department received a waiver from Koyo and did not receive a substantive response from any other respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations,* this constitutes a waiver of participation.

In their substantive response, Timken and Torrington argue that revocation of the order on TRBs from Japan would be likely to lead to continuation or recurrence of dumping due, in part, to the fact that there has been continuous dumping of subject TRBs for more than twelve years (*see* May 3, 1999, substantive response of Timken and Torrington at 8). Timken and Torrington further argue that the Asian financial and economic crisis has had the effect of limiting the market for TRBs in Japan and the rest of Asia, leaving Japanese TRB producers with excess capacity and the need to export more than they have in the past, specifically to non-Asian countries. Timken and Torrington maintain that the result of the Asian crisis has been a forty percent increase of exports of TRBs to the U.S. from 1997 to 1998 (*see id.* at 12). Moreover, Timken and Torrington argue that Japanese selling patterns in such non-Asian countries as Canada and Mexico indicate that absent the order, Japanese producers would increase exports to the U.S. by lowering prices. Timken and Torrington conclude that since the Japanese are presently selling in the U.S. at LTFV, even lower prices would mean greater levels of dumping (*see id.* at 13). In sum, Timken and Torrington argue that the consistent history of dumping with the discipline of the order in place, together with the impact of the Asian crisis and Japanese sales activity in other countries demonstrate

[6] *See Tapered Roller Bearings, 4 Inches and Under From Japan, et al.; Extension of Time Limit for Final Results of Five-Year Reviews,* 64 FR 42672 (August 5, 1999).

that dumping would continue or recur if the order were revoked.

In their substantive response, ANBM and NTN Bower (collectively, ''NTN'') argue that revocation of the order would have minimal, or no, impact upon the U.S. market for the following reasons. First, they maintain that producers in Japan have invested in production facilities in the U.S. since the imposition of the order, thereby decreasing the need to import subject merchandise from Japan. They further claim that imports from non-subject countries will continue to increase, therefore reducing the competitive threat from the subject country to the U.S. market. Finally, they argue that the U.S. bearing industry is financially secure (*see* May 3, 1999, substantive response of NTN at 3).

KCUM, in its substantive response, argues that revocation of the antidumping order would not have much of an effect on the U.S. market, prices, or the industry for two reasons. First, KCUM maintains that the U.S. market and the role of imports in the market have changed substantially over the past twenty years, and foreign producers whose imports have been subject to the order have moved substantial production facilities to the U.S. Therefore, KCUM argues, if the order is revoked, KCUM will continue to produce significant quantities of bearings in the U.S. because companies would not abandon their U.S. production facilities solely in response to the revocation of the order. Second, KCUM argues that foreign producers subject to the order have much smaller market shares with limited ability to influence prices in the market. The conclusion KCUM draws is that the TRB market in the U.S. is subject to conditions that affect prices to which the existence or revocation of the antidumping order is irrelevant (*see* May 3, 1999, substantive response of KCUM at 4–5).

In their rebuttal comments, Timken and Torrington maintain that the existence of manufacturing facilities in the U.S. is not relevant to the likelihood determination because despite the fact that such facilities have been in operation for many years, dumping of subject merchandise from Japan in substantial amounts has continued for many years (*see* May 12, 1999, rebuttal of Timken and Torrington at 3–4). Timken and Torrington further argue that any significant effect that onshore production was going to have on dumped imports would have demonstrated itself by now (*see id.* at 5). Moreover, Timken and Torrington rebut NTN's assertion that revocation will not have any effect because non-subject imports of TRBs will increase. Timken and Torrington argue that there is no evidence that, should the order be revoked, NTN or any other Japanese producer would raise its import prices. Timken and Torrington maintain that since Japanese producers currently sell at LTFV prices or lower, there is little likelihood that foreign producers of non-subject merchandise would be able to increase their market share (*see id.* at 5). Finally, Timken and Torrington rebut KCUM's argument that the U.S. market and the role of imports in the market have changed substantially over the past twenty years. Timken and Torrington maintain that since KCUM does not affirm that market conditions will change in any significant way, on the surface, KCUM's assertion supports the proposition that dumping will continue if the order were revoked because dumping occurs at present (*see id.* at 4–5).

NTN, in its rebuttal, argues that Timken and Torrington rely heavily on the assumption that the Asian economic situation will continue as it has for the foreseeable future. NTN, however, states that more recent economic trends indicate that the Japanese, and Asian, economies are on the verge of recovery (*see* May 12, 1999, rebuttal of NTN at 2). Finally, NTN maintains that Timken and Torrington also heavily rely on the duty absorption rates in arguing likely dumping levels. However, NTN points out that the rates cited by Timken and Torrington, as well as the order of duty absorption itself, are the subject of litigation before the Court of International Trade (*see id.* at 2).

The Department agrees, based on an examination of the final results of administrative reviews, that dumping margins above de minimis levels have continued throughout the life of the order for at least one Japanese producer/exporter.[7] As discussed in section II.A.3 of the *Sunset Policy Bulletin,* the SAA at 890, and the House Report at 63–64, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed. The Department also agrees that imports of the subject merchandise have continued throughout the life of the order. Since the imposition of the order, imports of TRBs from Japan have fluctuated greatly, showing no overall trend.[8]

Based on this analysis, the Department finds that the existence of dumping margins after the issuance of the order is highly probative of the likelihood of continuation or recurrence of dumping. A deposit rate above a de minimis level continues in effect for exports of the subject merchandise for at least one known Japan producer/exporter. Therefore, given that dumping has continued over the life of the order and respondent interested parties waived their right to participate in this review before the Department, we determine that dumping is likely to continue or recur if the order were revoked. Whatever relevance the arguments of those parties in support of revocation might have had concerning possible disincentives for producers and/or exporters to dump in the U.S. market, those arguments are mooted by the evidence that dumping continues and has continued over the life of the order.

Magnitude of the Margin

In the *Sunset Policy Bulletin,* the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin.*) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin.*)

In their substantive response, Timken and Torrington suggest that the Department deviate from its general practice of selecting the margins from the original investigation due to the fact that two major Japanese producers were found to be absorbing duties (*see* May 3, 1999, substantive response of Timken and Torrington at 18). Timken and Torrington also point out that where the Department has found duty absorption, for companies that were absorbing duties, it will report the greater of the margin it would normally report or the most recent margin for that company adjusted to account for the Department's findings on duty absorption (*see id.* at 16 and *Sunset Policy Bulletin*). In sum, Timken and Torrington recommend that

[7] *See* footnote 3.

[8] The Department bases this determination on information submitted by Timken and Torrington in its May 3, 1999, submission, as well as U.S. IM146 Reports, U.S. Department of Commerce statistics, U.S. Department of Treasury statistics, and information obtained from the U.S. International Trade Commission.

if the Department conducts an expedited review, it should rely on the evidence from the 1995–96 administrative review and forward the margins, as adjusted for duty absorption, for the companies from this review (*see id.* at 17).

NTN, in its substantive response, maintains that the dumping margin likely to prevail if the order were revoked is 0.00 percent. However, NTN alternatively requests that the Department employ margins that were determined during one of the more recent administrative reviews of the subject merchandise (*see* May 3, 1999, substantive response of NTN at 3–4).

In its substantive response, KCUM states that it cannot predict the likely effect of revocation of the order since the existence of the order does not have much of an effect on the prices at which bearings are sold in the United States, and, hence, on the margins generated on those sales (*see* May 3, 1999, substantive response of KCUM at 5). Moreover, KCUM argues that fluctuations in the exchange rate between the dollar and the Japanese yen have a significant impact on dumping margins (*see id.* at 6). They argue that the results of past administrative reviews reveal that antidumping margins tend to increase in periods in which the yen appreciates against the dollar and vice versa. As a result, KCUM argues, the margins that would prevail if the order were revoked cannot be determined because they are dependent on an entirely exogenous factor (*see id.* at 6). In any case, KCUM strenuously objects to the use of the margins calculated in the LTFV determination, arguing that the order is hopelessly obsolete and cannot serve as a realistic indicator of the market and pricing conditions that would exist today if the order were revoked (*see id.* at 6). Therefore, KCUM concludes that the Department should use the results of more recent administrative reviews when determining the margins that would exist for Koyo (*see id.* at 7).

As noted above, the Department determined in the final results of the 1995–96 administrative review that two Japanese producers/exporters, Koyo Seiko and NSK, were absorbing duties.[9] Consistent with the statute and the *Sunset Policy Bulletin*, the Department will notify the Commission of its findings regarding duty absorption when conducting a sunset review.

Additionally, the *Sunset Policy Bulletin* refers to the SAA at 885 and the House Report at 60, and provides that where the Department has found duty absorption, the Department normally will report to the Commission the higher of the margin that the Department otherwise would have reported or the most recent margin for that company, adjusted to account for the Department's findings on duty absorption.

In this case, the margins adjusted to account for the Department's duty absorption findings are less than the margins we would otherwise report to the Commission. As such, the Department will report to the Commission the company-specific and ''all others'' rates from the original investigation as contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/ Exporter	Margin (percent)
Koyo Seiko Co., Ltd.	70.44
NTN Toyo Bearing Co., Ltd.	47.05
All Others	47.57

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 28, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28767 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–DS–P

[9] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 2558 (January 15, 1998).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–485–602]

Final Results of Expedited Sunset Review: Tapered Roller Bearings From Romania

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset review: tapered roller bearings from Romania.

SUMMARY: On April 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty order on tapered roller bearings from Romania (64 FR 15727) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and adequate substantive comments filed on behalf of domestic interested parties and inadequate response (in this case, a waiver) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Darla D. Brown or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3207 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 4, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*'') and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

The merchandise subject to this antidumping duty order is tapered roller bearings and parts thereof (''TRBs'') from Romania. These include flange, take-up cartridge, and hanger units incorporating TRBs, and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use.

This merchandise is currently classifiable under the Harmonized Tariff Schedule (''HTS'') item numbers 8482.20.00.10, 8482.20.00.20, 8482.20.00.30, 8482.20.00.40, 8482.20.00.50, 8482.20.00.60, 8482.20.00.70, 8482.20.00.80, 8482.91.00.50, 8482.99.15.00, 8482.99.15.40, 8482.99.15.80, 8483.20.40.80, 8483.20.80.80, 8483.30.80.20, 8708.99.80.15, and 8708.99.80.80.[1] The HTS item numbers are provided for convenience and U.S. Customs purposes. The written description remains dispositive.

The Timken Company (''Timken'') and the Torrington Company (''Torrington''), in their substantive response, argue that two scope clarifications the Department made with regard to the antidumping order on TRBs, over four inches, from Japan are relevant to this order (*see* May 3, 1999, Substantive Response of Timken & Torrington at 12). Timken and Torrington argue that since the product description for that order is included in the Romanian order, the two Japanese rulings are relevant to the scope of the Romanian order. In the first ruling, the Department ruled that green rings which had not been heat-treated were within the scope of the order.[2] The Department also ruled that unfinished green forged rings and tower forgings were within the scope of the order.[3]

The Department makes its scope determinations on an order-specific basis. Therefore, we conclude that the two scope clarifications the Department made on the antidumping order on TRBs, over four inches, from Japan cannot be applied to this order.

History of the Order

The Department, in its final determination of sales at less than fair value (''LTFV''), published a country-wide weighted-average dumping margin for Romania (52 FR 17433, May 8, 1987). The antidumping duty order on TRBs from Romania was published in the **Federal Register** on June 19, 1987 (52 FR 23320). Since that time, the Department has conducted several administrative reviews.[4] This sunset review covers imports from all known Romanian producers/exporters. To date, the Department has issued no duty absorption findings in this case.

Background

On April 1, 1999, the Department initiated a sunset review of the antidumping order on TRBs from Romania (64 FR 15727), pursuant to section 751(c) of the Act. The Department received a Notice of Intent to Participate on behalf of Timken and Torrington on April 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. We received a complete substantive response from Timken and Torrington on May 3, 1999, within the 30-day deadline specified in the *Sunset Regulations* in section 351.218(d)(3)(i). Both Timken and Torrington claimed interested party status pursuant to section 771(9)(C) of the Act as U.S. manufacturers of TRBs. In addition, Timken stated that it participated in the original investigation and all administrative reviews of the order. Torrington, on the other hand, stated that it did not participate in the original investigation. On May 3, 1999, we received a waiver of participation from one respondent interested party to this proceeding, Tehnoimportexport S.A. As a result, pursuant to section 351.218(e)(1)(ii)(C) of the *Sunset Regulations*, the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). On August 5, 1999, the Department determined that the sunset review of the antidumping duty order on TRBs from Romania is extraordinarily complicated and extended the time limit for completion of the final results of this review until not later than October 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[5]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, interested parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin*, the Department indicated that determinations of likelihood will be made on an order-wide basis (*see*

[1] Per phone conversation with United States Customs officials, the HTS numbers listed above are those that Customs uses for official duty collection. *See* memo to file dated June 8, 1999, re. HTS numbers for TRBs.

[2] *See* unpublished scope ruling dated May 16, 1989.

[3] *See Final Affirmative Determination in Scope Inquiry on Antidumping Duty Order on Tapered Roller Bearings and Parts Thereof from Japan*, 60 FR 6519 (February 2, 1995).

[4] *See Tapered Roller Bearings from Romania; Final Results of Antidumping Duty Administrative Review*, 56 FR 1169 (January 11, 1991); as amended, *Tapered Roller Bearings from Romania; Amended Final Results of Antidumping Duty Administrative Review*, 57 FR 29288 (July 1, 1992); *Tapered Roller Bearings from Romania; Final Results of Antidumping Duty Administrative Review*, 56 FR 41518 (August 21, 1991); *Tapered Roller Bearings from Romania; Final Results of Antidumping Duty Administrative Review*, 61 FR 51427 (October 2, 1996); as amended, *Tapered Roller Bearings from Romania; Amended Final Results of Antidumping Duty Administrative Review*, 61 FR 59416 (November 22, 1996); *Tapered Roller Bearings from Romania; Final Results of Antidumping Duty Administrative Review*, 62 FR 37194 (July 11, 1997); *Tapered Roller Bearings from Romania; Final Results of Antidumping Duty Administrative Review*, 62 FR 31075 (June 6, 1997); and *Tapered Roller Bearings from Romania; Final Results of Antidumping Duty Administrative Review*, 63 FR 36390 (July 6, 1998).

[5] *See Tapered Roller Bearings, 4 Inches and Under From Japan, et al.; Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 42672 (August 5, 1999).

section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3 of the *Sunset Policy Bulletin*).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did receive a waiver of participation from one respondent interested party and did not receive a response from any other respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

In their substantive response, Timken and Torrington argue that revocation of the order on TRBs from Romania would be likely to lead to continuation or recurrence of dumping due to the fact that dumping margins above *de minimis* have been calculated after the issuance of the order. Timken and Torrington argue that the zero margins determined in the 1988–89 and 1993–94 reviews are not representative of the behavior of Romanian producers of TRBs because Romania lost its most-favored-nation (MFN) status from 1989–1993 (*see* May 3, 1999, Substantive Response of Timken & Torrington at 7–8). During that time, imports declined sharply. Whenever there have been significant imports of TRBs from Romania, argue Timken and Torrington, they have been sold at less than fair value (*see id.* at 8).

Timken and Torrington further assert that one major Japanese producer of TRBs, Koyo Seiko, has majority ownership of one of the Romanian bearings companies, Rulmenti Alexandria. Timken and Torrington suggest that since Koyo Seiko has a history of exporting TRBs from Japan to the U.S. at less than fair value, Koyo will not hesitate to sell its Romanian products at less than fair value, given the opportunity (*see id.* at 9).

With respect to whether imports of the subject merchandise ceased immediately following the issuance of the order, Timken and Torrington do not provide any information in their substantive response. They do, however, maintain that in the years during which Romania lost its MFN status (1989–93), imports declined significantly (*see id.* at 8).

In sum, Timken and Torrington maintain that Romania's focus on exports, history of sales in the U.S., the continuing importance of the U.S. market, and enhanced corporate resources provide Romanian producers with incentives to dump the subject merchandise in the U.S. if the order is revoked (*see id.* at 9). They conclude that the Department should determine that there is a likelihood that dumping would continue or recur if the order is revoked because above *de minimis* margins have existed throughout the life of the order.

The Department agrees, based on an examination of the final results of administrative reviews, that dumping margins above *de minimis* levels, with the exception of one country-wide margin of zero[6] and one company-specific margin of zero,[7] have continued throughout the life of the order.[8] Currently, dumping margins above *de minimis* exist on both a country-wide and company-specific basis. As discussed in section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63–64, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed.

With respect to import levels, the Department agrees that imports of the subject merchandise decreased in 1988, the year following the imposition of the order. However, since that time, imports of TRBs from Romania have fluctuated greatly, showing no overall trend.[9]

Based on this analysis, the Department finds that the existence of dumping margins after the issuance of the order is highly probative of the likelihood of continuation or recurrence of dumping. A deposit rate above a *de minimis* level continues in effect for exports of the subject merchandise for at least one known Romanian producer/exporter. Given that dumping has continued over the life of the order and respondent interested parties waived their right to participate in this review before the Department, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue or recur if the order were revoked.

Because the Department based this determination on the continued existence of margins above *de minimis* and respondent interested parties' waiver of participation, it is not necessary to address Timken and Torrington's arguments concerning the Japanese bearing producer's ownership of one Romanian company.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

As noted above, the Department, in its final determination of sales at LTFV, published a country-wide weighted-average dumping margin for Romania (52 FR 17433, May 8, 1987). To date, the Department has not made any duty absorption findings in this case.

In their substantive response, Timken and Torrington suggest that if economic conditions in Romania were normal, the Department should forward to the Commission the margin from the original investigation. However, they suggest that the Department deviate from its general practice of selecting the margin from the original investigation. They argue that the current economic conditions in Romania are not ''normal'' conditions, and therefore, these abnormal circumstances warrant the use of a newly-calculated margin. They elaborate on their argument by stating that the Romanian economy is in a state of flux, such that industries, including the bearing industries, are undergoing significant change and responding to constantly changing circumstances (*see* May 3, 1999, Substantive Response of Timken & Torrington at 10–11). They suggest that Koyo Seiko's twenty-five year history of dumping, at an average

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[6] *See Tapered Roller Bearings from Romania; Final Results of Antidumping Duty Administrative Review*, 62 FR 31075 (June 6, 1997).

[7] *See Tapered Roller Bearings from Romania; Final Results of Antidumping Duty Administrative Review*, 56 FR 41518 (August 21, 1991).

[8] *See* footnote 4.

[9] The Department bases this determination on information submitted by Timken and Torrington in their May 3, 1999, submission, as well as U.S. IM146 Reports, U.S. Department of Commerce statistics, U.S. Department of Treasury statistics, and information obtained from the U.S. International Trade Commission.

margin above 25 percent, coupled with its majority ownership of Rulmenti Alexandria, makes it reasonable to conclude that this company would export TRBs to the United States with dumping margins significantly higher than the original Romania rate. Finally, they note that per kilogram values of Romanian exports of the subject merchandise dropped by over 25 percent between the 1994–95 and 1998–99 review periods (*see id.* at 11–12). In conclusion, Timken and Torrington urge the Department to identify a margin, based on the most recent data available, other than the calculated one for forwarding to the Commission (*see id.* at 11).

As noted in the *Sunset Regulations* and *Sunset Policy Bulletin,* only under the most extraordinary circumstances will the Department rely on dumping margins other than those it calculated and published in its prior determinations. The *Sunset Regulations,* at section 351.218(e)(2)(i), explain that ''extraordinary circumstances'' may be considered by the Department in the context of a full sunset review, where the substantive response from both domestic and respondent interested parties are adequate. In this case, however, the Department determined to conduct an expedited review because of a waiver of participation from respondent interested parties.

Further, we are not persuaded that calculation of a new margin is appropriate based on the assertions by Timken and Torrington concerning the state of the Romanian economy, alleged changes in the Romanian bearings industry, Koyo Seiko's ownership of one of the Romanian companies, and whether per kilogram values of exports to the United States have radically declined.

As explained above, the Department may consider the calculation of new margins only in full reviews. However, even if the Department had determined to conduct a full review of this order, Timken's and Torrington's assertions do not give rise to extraordinary circumstances that would warrant the calculation of a new dumping margin.

Therefore, consistent with the *Sunset Policy Bulletin,* the Department determines that the margin calculated in the original investigation is probative of the behavior of Romanian producers/exporters if the order were revoked as it is the only rate that reflects the behavior of these producers and exporters without the discipline of the order. As such, the Department will report to the Commission the country-wide rate from the original investigation as contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the margin listed below:

Manufacturer/ Exporter	Margin (percent)
Country-wide rate	8.70

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 28, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28768 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–437–601]

Final Results of Expedited Sunset Review: Tapered Roller Bearings From Hungary

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset review: Tapered roller rearings from Hungary.

SUMMARY: On April 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping order on tapered roller bearings from Hungary (64 FR 15727) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and substantive comments filed on behalf of domestic interested parties and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Darla D. Brown or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3207 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 4, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*'') and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

The products covered by this review are tapered roller bearings (''TRBs''), finished and unfinished, from Hungary. This merchandise includes tapered roller bearings and parts thereof, flange, take-up cartridge, and hanger units incorporating tapered roller bearings and tapered roller housings (excluding pillow block) incorporating tapered rollers, with or without spindles, whether or not for automotive use.

The Timken Company (''Timken'') and the Torrington Company (''Torrington''), in their substantive response, argue that two scope clarifications the Department made with regard to the antidumping order on TRBs, over four inches, from Japan are relevant to this order (*see* May 3, 1999, Substantive Response of Timken & Torrington at 12). Timken and Torrington argue that since the product description for that order is included in the Hungarian order, the two Japanese rulings are relevant to the scope of the Hungarian order. In the first ruling, the

Department ruled that green rings which had not been heat-treated were within the scope of the order.[1] The Department also ruled that unfinished green forged rings and tower forgings were within the scope of the order.[2]

The Department makes its scope determinations on an order-specific basis. Therefore, we conclude that the two scope clarifications the Department made on the antidumping order on TRBs, over four inches, from Japan cannot be applied to this order.

Tapered roller bearings are currently classified under the following item numbers of the Harmonized Tariff Schedule (''HTS'') of the United States: 8482.20.00.10, 8482.20.00.20, 8482.20.00.30, 8482.20.00.40, 8482.20.00.50, 8482.20.00.60, 8482.20.00.70, 8482.20.00.80, 8483.20.40.80, 8483.20.80.80, 8483.30.80.20, 8482.91.00.50, 8482.99.15.00, 8482.99.15.40, 8482.99.15.80, 8708.99.80.15, and 8708.99.80.80.[3] The HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

History of the Order

The Department, in its final determination of sales at less than fair value (''LTFV''), published a country-wide weighted-average dumping margin for all exports from Hungary of 7.42 percent *ad valorem*.[4] The antidumping duty order on TRBs was published in the **Federal Register** on June 19, 1987, and, in the order, the dumping margins that were found in the final determination were confirmed. Since the imposition of this order, the Department has conducted four administrative reviews.[5] The order remains in effect for all manufacturers and exporters of the subject merchandise. To date, the Department has issued no duty absorption findings in this case.

This review covers all producers and exporters of TRBs from Hungary.

Background

On April 1, 1999, the Department initiated a sunset review of the antidumping order on TRBs from Hungary (64 FR 15727), pursuant to section 751(c) of the Act. The Department received a notice of intent to participate on behalf of Timken and Torrington (collectively ''the domestic parties'') on April 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. We then received a complete substantive response from the domestic parties on May 3, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). The domestic parties claimed interested party status under section 771(9)(C) of the Act as U.S. manufacturers of TRBs. Timken stated that it was the petitioner in the original LTFV investigation and has participated in all of the subsequent reviews of this order. Torrington stated that it has not participated in any of the proceedings before the Department regarding this order, but that it supports preservation of this order and will participate in this proceeding. We did not receive a substantive response from any respondent interested party to this proceeding. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct an expedited, 120-day, review of this order.

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). Therefore, on August 5, 1999, the Department determined that the sunset review of the antidumping duty order on TRBs from Hungary is extraordinarily complicated and extended the time limit for completion of the final results of these reviews until not later than October 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[6]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order, and shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin,* the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order would be likely

[1] *See* unpublished scope ruling dated May 16, 1989.

[2] *See Final Affirmative Determination in Scope Inquiry on Antidumping Duty Order on Tapered Roller Bearings and Parts Thereof from Japan,* 60 FR 6519 (February 2, 1995).

[3] Per phone conversation with United States Customs officials, the HTS numbers listed above are those that customs uses for official duty collection. *See* Memorandum to File regarding HTS numbers for tapered roller bearings, dated June 8, 1999.

[4] *See Final Determination of Sales at Less Than Fair Value; Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the Hungarian People's Republic,* 52 FR 17428 (May 8, 1987).

[5] *See Final Results of Antidumping Duty Administrative Review; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the Republic of Hungary,* May 22, 1990 (55 FR 21066); *Final Results of Antidumping Duty Administrative Review; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the Republic of Hungary,* November 19, 1990 (55 FR 48146); *Final Results of Antidumping Duty Administrative Review; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the Republic of Hungary,* August 23, 1991 (56 FR 41819); and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the Republic of Hungary; Final Results of Antidumping Duty Administrative Review,* September 13, 1993 (58 FR 47861).

[6] *See Tapered Roller Bearings, 4 Inches and Under From Japan, et al.; Extension of Time Limit for Final Results of Five-Year Reviews,* 64 FR 42672 (August 5, 1999).

to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In this instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

In their substantive response, the domestic parties argue that revocation of the order will likely lead to continuation or recurrence of dumping of TRBs from Hungary. Citing the SAA at 889, the domestic parties argue that the continued existence of dumping margins above *de minimis* over the life of the order is indicative of the fact that foreign producers would have to dump in order to compete in the U.S. market. The domestic parties argue that dumping margins above *de minimis* levels have been in existence throughout the entire life of the order on TRBs from Hungary and, therefore, dumping would likely continue if the order were revoked (*see* May 3, 1999, Substantive Response of the domestic parties at 7).

With respect to whether imports of the subject merchandise declined significantly or ceased after the issuance of the order, the domestic parties maintain that imports of TRBs began to decline with the succession of confirmed dumping determinations in November 1990 and August 1991. The domestic parties assert that these determinations resulted in a decline in imports of TRBs from $1.8 million in 1992 to less than $400,000 in 1993, with import volumes falling from over 5 million units in 1992 to less than 1 million units. Moreover, they argue that import volumes of TRBs from Hungary have remained at low levels since 1993. The domestic parties argue that, while in the years immediately following the imposition of the order, from 1988 to 1991, import volumes remained high and even increased in 1988, the year immediately following the order, the low level of imports that has existed since 1993 is probative of the fact that Hungarian producers/exporters are unable to sell at high volumes in the U.S. without dumping (*see id.* at 8–9).

In addition to arguments regarding dumping margins and import volumes, the domestic parties also argue that there are other outside pressures on Hungarian producers and exporters that would lead to continuation or recurrence of dumping of TRBs from Hungary if the order were revoked. Specifically, the domestic parties argue that since most of the TRBs produced in Hungary are exported and Hungary has limited export markets, it is likely that TRBs from Hungary would be dumped in the U.S. market. Additionally, the domestic parties assert that it is likely that dumping would continue or recur if the order were to be revoked because of the openness of the U.S. market and because the current low level of imports of TRBs from Hungary is due primarily to the existence of the antidumping duty order, rather than any changes in the market for this product (*see id.* at 9–10).

In conclusion, the domestic parties argue that the Department should determine that there is a likelihood that dumping of imports of TRBs from Hungary would continue or recur if the antidumping duty order were revoked. The domestic parties argue that the continued existence of dumping margins above *de minimis* over the life of the order, the decline in import volumes following imposition of the order, and the accessibility of the U.S. market compared to other countries indicate that dumping of TRBs from Hungary is likely to continue or recur if the order were revoked.

As discussed in section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63–64, if companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline were removed. Since the imposition of the antidumping duty order in 1987, dumping margins above *de minimis* have been in existence for all producers and exporters of TRBs from Hungary.

With respect to whether imports of the subject merchandise declined significantly or ceased after the imposition of the order, it is evident from the data provided by the domestic parties, and confirmed by the Department using U.S. Census Bureau IM146s, that imports did not cease or decline significantly immediately following the imposition of the order. While imports of TRBs from Hungary have decreased over the life of the order, recently declining to minimal levels, in the years immediately following the order, imports remained fairly constant. The domestic parties recognize this fact, as stated in their response, that Hungarian exports did not immediately decline after the imposition of the order (*see* May 3, 1999, Substantive Response of the domestic parties at 8). Therefore, the Department determines that, while imports did not decline immediately following the imposition of the order, they have fallen over the life of the order.

According to the *Sunset Policy Bulletin*, the Department will normally find that revocation of the antidumping duty order will likely lead to continuation or recurrence of dumping where dumping margins continued at any level after the issuance of the order or where dumping was eliminated after the issuance of the order and import volumes of the subject merchandise declined significantly. (*See Sunset Policy Bulletin* at section II.A.3.) Therefore, given the continued existence of dumping margins, as well as the fact that respondent parties waived participation, and absent argument and evidence to the contrary, the Department determines that dumping is likely to continue or recur if the order were revoked.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that it normally will provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department, in its final determination of sales at LTFV, published a weighted-average country-wide dumping margin of 7.42 percent for all producers/exporters of TRBs from Hungary (55 FR 21066, May 22, 1987). Since the original investigation, as noted above, there have been four administrative reviews of this order.

The domestic parties, in their substantive response, citing the *Sunset Policy Bulletin*, argue that, absent a finding of unusual circumstances, the Department should suggest to the Commission the country-wide rate from the original investigation as the rate that is likely to prevail if the order were to be revoked. However, the domestic parties argue that the Department should find that unusual circumstances exist in Hungary and, on that basis, should calculate a new rate to provide to the Commission. The domestic parties argue that the economic conditions in Hungary are not ''normal'' conditions since the Hungarian economy is in the process of changing from a state-run economy to a free-market economy. Because of this change, the domestic parties argue that more recent information is more likely

to be accurate than older information based on economic conditions that no longer exist. Therefore, it is the opinion of the domestic parties that a newly calculated dumping margin based on exports of Hungarian TRBs to the European Union should be used to determine a new rate. Without explanation, the domestic parties project the new dumping margin to be 45.96 percent (*see* May 3, 1999, Substantive Response of the domestic parties at 11–12).

As noted in the *Sunset Regulations* and *Sunset Policy Bulletin*, only under the most extraordinary circumstances will the Department rely on dumping margins other than those it calculated and published in its prior determinations. The *Sunset Regulations* at 19 CFR 351.218(e)(2)(i) explain that ''extraordinary circumstances'' may be considered by the Department in the context of a full sunset review, where the substantive response from both domestic and respondent interested parties are adequate. In this case, however, the Department determined to conduct an expedited review because respondent interested parties waived participation. While only in full reviews will the Department consider the calculation of new margins, it must be further noted that even if the Department had determined to conduct a full review of this order, we are not persuaded by the evidence presented by the domestic parties that such extraordinary circumstances exist in this case as to warrant the calculation of a new dumping margin.

Further, we are not persuaded that calculation of a new margin is appropriate based on the assertions by the domestic parties concerning the state of the Hungarian economy, alleged changes in the Hungarian bearings industry, and the accessibility of the U.S. market for Hungarian producers/exporters.

Therefore, consistent with the *Sunset Policy Bulletin*, the Department determines that the margin calculated in the original investigation is probative of the behavior of Hungarian producers/exporters if the order were revoked as it is the only rate that reflects the behavior of these producers and exporters without the discipline of the order. As such, the Department will report to the Commission the country-wide rate from the original investigation as contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would likely lead to continuation or recurrence of dumping at the margins listed below.

Manufacturer/ Exporter	Margin (percent)
Country-wide rate	7.42

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 28, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28769 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–804]

Final Results of Expedited Sunset Reviews: Antifriction Bearings From Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset reviews: antifriction bearings from Japan.

SUMMARY: On April 1, 1999, the U.S. Department of Commerce (''the Department'') initiated sunset reviews of the antidumping duty orders on ball bearings (''BBs''), cylindrical roller bearings (''CRBs''), and spherical plain bearings (''SPBs'') (collectively, antifriction bearings) from Japan pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and an adequate response filed on behalf of a domestic interested party and inadequate response from respondent interested parties in each of these reviews, the Department conducted expedited sunset reviews. As a result of these reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Result of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 4, 1999.

Statute and Regulations

These reviews were conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations''), and 19 CFR 351(1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Scope

The products covered by these orders, antifriction bearings (other than tapered roller bearings), mounted or unmounted, and parts thereof (AFBs), constitute the following three types of subject merchandise:

Ball Bearings and Parts Thereof: These products include all AFBs that employ balls as the roller element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof. Imports of these products are classified under the following Harmonized Tariff Schedule (HTS) subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.35, 8482.99.2580, 8482.99.6595, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.6060, 8708.70.8050, 8708.93.30, 8708.93.5000, 8708.93.6000, 8708.93.75, 8708.99.06, 8708.99.31, 8708.99.4960,

8708.99.50, 8708.99.5800, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

Cylindrical Roller Bearings, Mounted or Unmounted, and Parts Thereof: These products include all AFBs that employ cylindrical rollers as the rolling element. Imports of these products are classified under the following categories: antifriction rollers, all cylindrical roller bearings (including split cylindrical roller bearings) and parts thereof, housed or mounted cylindrical roller bearing units and parts thereof. Imports of these products are classified under the following HTS subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.40.00, 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.25, 8482.99.35, 8482.99.6530, 8482.99.6560, 8482.99.70, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.93.5000, 8708.99.4000, 8708.99.4960, 8708.99.50, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

Spherical Plain Bearings, Mounted or Unmounted, and Parts Thereof: These products include all spherical plain bearings that employ a spherically shaped sliding element and include spherical plain rod ends. Imports of these products are classified under the following HTS subheadings: 3926.90.45, 4016.93.00, 4016.93.00, 4016.93.10, 4016.93.50, 6909.50,10, 8483.30.80, 8483.90.30, 8485.90.00, 8708.93.5000, 8708.99.50, 8803.10.00, 8803.10.00, 8803.20.00, 8803.30.00, and 8803.90.90.

The Department notes that the HTS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive. Furthermore, we note that the size or precision grade of a bearing does not influence whether the bearing is covered by the orders. These orders cover all the subject bearings and parts thereof (inner race, outer race, cage, rollers, balls, seals, shields, etc.) outlined above with certain limitations. With regard to finished parts, all such parts are included in the scope of these orders. For unfinished parts, such parts are included if (1) they have been heat-treated, or (2) heat treatment is not required to be performed on the part. Thus, the only unfinished parts that are not covered by these orders are those that will be subject to heat treatment after importation.

The ultimate application of a bearing also does not influence whether the bearing is covered by the orders. Bearings designed for highly specialized applications are not excluded. Any of the subject bearings, regardless of whether they may ultimately be utilized in aircraft, automobiles, or other equipment, are within the scopes of these orders.[1]

History of the Orders

The Department published its less-than-fair-value (''LTFV'') determination of antifriction bearings from Japan on May 3, 1989.[2] In this determination, the Department published the following weighted-average dumping margins for these companies with respect to BBs: 73.55 for Koyo; 106.61 for Minebea; 48.69 for Nachi; 42.99 for NSK; 21.36 for NTN; and 45.83 for all other producers and/or exporters. The Department also published the following weighted-average dumping margins for these companies with respect to CRBs: 51.21 for Koyo; 4.00 for Nachi; 12.28 for NSK; 9.30 for NTN; and 25.80 for all other producers and/or exporters. In addition, the Department published the following weighted-average dumping margins for these companies with respect to SPBs: 84.26 for Minebea; 92.00 for NTN; and 84.33 for all other producers and/or exporters. Since that time, the Department has conducted nine administrative reviews.[3] With respect to duty absorption, the Department issued duty absorption findings in the 1995–1996 and 1997–1998 administrative reviews.[4]

Background

On April 1, 1999, the Department initiated sunset reviews of the antidumping duty orders on AFBs from Japan, pursuant to section 751(c) of the Act. By April 16, 1999, within the deadline specified in section

[1] There have been a number of clarifications to the scopes of these orders. For a complete listing, *see* Appendix A.

[2] *See Final Determinations of Sales at Less Than Fair Value; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Japan,* 54 FR 19101 (May 3, 1989).

[3] *See Final Determinations of Sales at Less Than Fair Value; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Japan,* 54 FR 19101 (May 3, 1989); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Japan; Final Results of Antidumping Duty Administrative Reviews,* 56 FR 31754 (July 11, 1991); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany; et al.; Amended Final Results of Antidumping Duty Administrative Reviews,* 62 FR 32755 (June 17, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France; et al.; Final Results of Antidumping Duty Administrative Reviews,* 57 FR 28360 (June 24, 1992); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Sweden, and the United Kingdom; Amendment to Final Results of Antidumping Duty Administrative Reviews,* 57 FR 59080 (December 14, 1992); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Amended Final Results of Antidumping Duty Administrative Reviews,* 63 FR 8908 (February 23, 1998); *Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order,* 58 FR 39729 (July 26, 1993); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom; Amendment to Final Results of Antidumping Duty Administrative Reviews,* 58 FR 42288 (August 9, 1993); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Japan; Amendment to Final Results of Antidumping Duty Administrative Reviews,* 59 FR 9469 (February 28, 1994); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Amended Final Results of Antidumping Duty Administrative Reviews,* 63 FR 18877 (April 16, 1998); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders,* 60 FR 10900 (February 28, 1995); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Japan and Germany; Amendment to Final Results of Antidumping Duty Administrative Reviews,* 60 FR 10967 (February 28, 1995); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Japan; Amended Final Results of Antidumping Duty Administrative Review,* 60 FR 65264 (December 19, 1995); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 FR 66472 (December 17, 1996); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany, Italy, Japan, and the United Kingdom: Amended Final Results of Antidumping Duty Administrative Reviews,* 62 FR 3003 (January 21, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 62 FR 2081 (January 15, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, and Singapore; Amended Final Results of Antidumping Duty Administrative Reviews,* 62 FR 14391 (March 26, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Japan and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews,* 62 FR 45795 (August 29, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 62 FR 54043 (October 17, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore; Sweden and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews,* 62 FR 61963 (November 20, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 63 FR 33320 (June 18, 1998); *Final Results of Antidumping Duty Administrative Reviews,* 64 FR 35590 (July 1, 1999).

[4] *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 62 FR 54043 (October 17, 1997); *Final Results of Antidumping Duty Administrative Reviews,* 64 FR 35590 (July 1, 1999).

351.218(d)(1)(i) of the *Sunset Regulation,* we received notices of intent to participate from the following: Link-Belt Bearing Division (''Link-Belt''); The Torrington Company (''Torrington'') and MPB Corporation (''MPB''); Koyo Corporation of U.S.A.—Manufacturing Division (''KCUM''); NTN Bearing Corporation of America (''NBCA''), American NTN Bearing Manufacturing Corporation (''ANBM'') and NTN–BCA Corporation (''NTN–BCA'') (collectively (''NTN''); Roller Bearing Company of America, Inc. (''RBC''); New Hampshire Ball Bearings, Inc. (''NHBB''), and NSK Corporation. Each of these parties claimed status as domestic interested parties on the basis that they are a domestic producer, manufacturer, or wholesaler of one or more of the products subject to these orders.[5]

Within the deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i), on May 3, 1999, the Department received complete substantive responses from each of these domestic interested parties, with the exception of Link-Belt. In addition, Koyo Seiko Corp. Ltd., and Koyo Corporation of the U.S.A. (collectively ''Koyo'') notified the Department that they would not file a substantive response in the reviews of the AFB orders. Finally, we received a complete substantive response on behalf of Nippon Pillow Block Manufacturing Company Limited, Nippon Pillow Block Sales Company Limited, and FYH Bearing Units USA, Inc. (collectively ''Nippon Pillow Block''). Nippon Pillow Block asserts that it is a foreign manufacturer and exporter of BBs and is, therefore, an interested party within the meaning of section 771(9)(A) of the Act. We received rebuttal comments from Torrington and MPB (collectively ''the companies'') and from NTN on May 12, 1999, within the deadline.

On May 21, 1999, we informed the International Trade Commission (''Commission'') that, on the basis of inadequate response from respondent interested parties, we were conducting expedited sunset reviews of these orders consistent with 19 CFR 351.218(e)(1)(ii)(C)(2). (*See* Letter to Lynn Featherstone, Director, Office of Investigations from Jeffrey A. May, Director, Office of Policy.)

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). Therefore, on August 5, 1999, the Department determined that the sunset reviews of the antidumping duty orders on AFBs from Japan are extraordinarily complicated and extended the time limit for completion of the final results of these reviews until not later than October 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[6]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted these reviews to determine whether revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order. Pursuant to section 752(c)(3) of the Act, the Department shall provide to the Commission the magnitude of the margin likely to prevail if the order is revoked.

The Department's determinations concerning adequacy, continuation or recurrence of dumping, and magnitude of the margin are discussed below. In addition, the parties' comments with respect to adequacy, the continuation or recurrence of dumping, and the magnitude of the margin are addressed within the respective sections below.

Adequacy

As noted above, we notified the Commission that we intended to conduct expedited reviews of these orders. On June 10, 1999, we received comments on behalf of MPB and Torrington supporting our determination to conduct expedited reviews. NHBB and NSK Corporation also submitted comments on whether expedited sunsets review were warranted. In their submissions, both parties assert that most of the domestic interested parties that submitted substantive responses are in favor of revocation of the orders. These parties also offered new argument regarding the likely effect of revocation of the orders.

The magnitude of domestic support for continuation or revocation of an order, however, does not enter into the Department's determination of adequacy of participation nor, for that matter, the Department's determination of likelihood. The Department made clear in its regulations that a complete substantive response from one domestic interested party would be considered adequate for purpose of continuing a sunset review (see section 351.218(e)(1)). Nowhere in the statute or legislative history is there reference to consideration of domestic industry support during the course of a sunset review (other than the statutory provision that, if there is *no* domestic industry interest in continuation of the order, the Department will revoke the order automatically). In fact, the Senate Report (at Rep. No. 103–412 at 46 (2nd Session)) makes clear that the purpose of adequacy determinations in sunset reviews is for the Department to determine whether to issue a determination based on the facts available without further fact-gathering. Further, the statute, at section 751(c)(1), specifies that the Department is to determine whether revocation of an order would be likely to lead to continuation or recurrence of dumping. Section 752(c) specifies that the Department is to consider the weighted-average dumping margins determined in the investigation and subsequent reviews, as well as the volume of imports of the subject merchandise for the period before and the period after the issuance of the order.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the basis for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the

[5] Torrington, RBC, and NHBB filed with respect to BBs, CRBs, and SPBs. Link-Belt, MPB, and NTN filed with respect to BBs and CRBs. KCUM and NSK filed with respect to BBs only.

[6] *See Tapered Roller Bearings, 4 Inches and Under From Japan, et. al.: Extension of Time Limit for Final Results of Five-Year Reviews,* 64 FR 42672 (August 5, 1999).

subject merchandise declined significantly (see section II.A.3).

In their substantive response, Torrington and MPB argue that revocation of the antidumping duty orders on the subject merchandise would be likely to lead to continuation of dumping. They base this conclusion on the fact that dumping continued at levels above *de minimis* levels after the issuance of the orders. RBC also argues that given that dumping margins continue to exist after the issuance of the orders, the Department must conclude that dumping would be likely to continue or recur if the orders were revoked. Torrington and MPB also assert that an examination of import volumes is not necessary because dumping continued. Using pre-and post-order statistics for complete unmounted BBs, which Torrington and MPB assert is the only category for which statistics are available on a consistent basis, they nonetheless argue that post-order declines in import volume provide strong additional support for a determination the dumping is likely to continue or recur were the orders revoked. In conclusion, Torrington and MPB assert that no ''good cause'' exists to consider other factors, such as sales below the cost of production. However, if the Department were to consider other factors, it should acknowledge that, in each review period, it has found that home market sales by Japanese producers were below the cost of production, requiring that such sales be disregarded for purposes of determining foreign market value or normal value.

NHBB and NSK Corporation assert that revocation of the orders is not likely to result in continuation or recurrence of dumping. NHBB bases its assertion on the fact that dumping would undercut the U.S. domestic price structure, thus causing injury to the very industry of which foreign owners are a part. NSK Corporation appears to support its assertion on the basis that the margin of dumping would be no higher than the margin found in the most recent administrative review (*i.e.*, 2.30 percent). KCUM and NTN argue that revocation of the antidumping duty orders would not be likely to have much of an effect on the U.S. market, prices, or the industry, or would it result in no or minimal impact upon the U.S. market. In addition, the respondent interested party in the review of Bbs, Nippon Pillow Block, asserts that revocation or the order would have minimal or *de minimis* effects on the BB market in the United States and the operations of the domestic producers. Further, Nippon Pillow Block argues that dumping would not be likely to continue or resume, although it also suggests that, if the order were revoked, the antidumping duty margin likely to prevail is 2.30 percent.

In their rebuttal comment, Torrington and MPB assert that the Department should take into account the submitter's affiliation in its consideration of comments of various parties filing as domestic producers. Further, citing to Ball Bearings and Parts Thereof From Thailand; Final Results of Changed Circumstances Countervailing Duty Review and Revocation of Countervailing Duty Order, 61 FR 20799, 20800 (May 8, 1996), they argue that the Department has recognized that domestic producers who are affiliated with subject foreign producers and exporters do not have a common ''stake'' with the petitioner in the maintenance of the order. Additionally, Torrington and MPB argue that other parties' comments addressing issues other than margins and import volumes should not be considered unless such parties establish ''good cause'' to consider such additional factors, which, in these reviews, they have not done.

In its rebuttal comments, NTN argues that the factors discussed in Torrington's, MPB's, and RBC's responses do not indicate that revocation of the orders would be likely to lead to the continuation or recurrence of dumping. NTN asserts that the inclusion by RBC of margins from companies which do not currently ship to the United States and which have not been the subject of recent reviews is distortive of the current situation. Further, NTN asserts that the responses rely heavily on duty absorption determinations that are the subject of litigation before the Court of International Trade.

As discussed in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and the House Report at 63–64, existence of dumping margins after the order is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline of the order were removed. Thus, as noted above, in determining whether revocation of an order is likely to lead to continuation or recurrence of dumping, the Department considers the margins determined in the investigation and subsequent administrative reviews and the volume of imports. Whatever relevance the arguments of NHBB, NSK Corporation, KCUM, and NTN concerning possible disincentives for producers and/or exporters to dump in the U.S. market might have had is mooted by the evidence that dumping continues and has continued over the lives of the orders.

In the instant proceedings, dumping margins above *de minimis* continue to exist with respect to each of the orders. Therefore, given that dumping has continued over the life of the orders, the Department determines that dumping is likely to continue if the orders were revoked. Because we have based this determination on the fact that dumping continued at levels above *de minimis*, we have not addressed the comments submitted by Torrington and MPB with respect to ''good cause,'' nor have we addressed the arguments of other interested parties regarding the condition of the U.S. market.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that, consistent with the SAA and House Report, the Department will normally provide to the Commission a margin from the investigation because that is the only calculated rate that reflects the behavior or exporters without the discipline of an order in place. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department wil normally provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the Sunset Policy Bulletin.)

In their substantive response, Torrington and MPB argue that the margins that are likely to prevail should the orders be revoked are the dumping margins found for each company in the original investigation (as opposed to margins calculated in succeeding annual administrative reviews), including margins based on best information available, except where the most current margin, increased by the Department's duty absorption determination, exceeds the original investigation margin. With respect to BBs, RBC argues that the margins from the original investigation are the margins likely to prevail were the order revoked.

NHBB argues that the dumping margins likely to prevail if the orders were revoked are *de minimis*. NHBB goes on to argue that it would be illogical for companies with significant U.S. bearings investments to undercut that investment by dumping. In

addition, NHBB argues that the Department should not report margins from the original investigation, asserting that the SAA provides that, in certain instances, it is more appropriate to rely on a more recently calculated margin. NHBB also asserts that one such instance is where, as in the AFB cases, dumping margins have declined over the lives of the orders and imports have remained steady or increased. Finally, NHBB argues that, in light of changes in the methodology used to calculate antidumping duty margins introduced by the Uruguay Round, use of margins calculated by the Department prior to the URAA would be unfair and would be contrary to the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

Similarly, NSK Corporation argues that the margins likely to prevail are *de minimis.* As support, NSK Corporation argues that, were the orders not in existence, the Department would apply the average-to-average methodology used in an investigation as opposed to the transaction-to-average methodology common to administrative reviews to measure the extent of any dumping. In such a case, NSK Corporation states that it believes any margin found would be below the two percent *de minimis* level applicable in investigations. NSK Corporation argues that further that the Department's unorthodox approach during the original investigation, plus the liberal use of best information available, skewed the results of the original investigation seriously, rendering those results inappropriate indicators of the magnitude of the margin likely to prevail were the orders revoked. Finally, NSK Corporation also argues that dumping margins have declined over time with respect to importations of BBs while, at the same time, importations have remained at or around 20 percent of the U.S. market. As support, it cites to The Economic Effects of Antidumping and Countervailing Duty Orders and Suspension Agreements, USITC Pub. 2900, Inv. No. 332–334, at 14–26—14–31 (June 1995).

KCUM argues that it cannot predict the effect revocation would have on the margins because the existence of the orders does not have much of an effect on prices. Further, KCUM states that any likely margins are dependent on an entirely exogenous factor, such as the fluctuation in the exchange rate between the dollar and the Japanese yen. KCUM asserts that the Department cannot rely on the margins from the original investigation as (1) the final determinations were almost 10 years ago and thus are far too old to serve as realistic indicators, and (2) Koyo's rate was based in large part on best information available and thus is enormously inflated when compared to actual margins from administrative reviews. KCUM argues that, therefore, the Department must use the results of more recent administrative reviews to determine the margins likely to prevail for Koyo.

NTN argues that, were the orders revoked, the dumping margins that would likely prevail would be zero percent. In the alternative, NTN requests that the Department employ margins that were determined during the more recent administrative reviews.

Nippon Pillow Block argues that, in cases where imports have increased and the magnitude of dumping has declined since the imposition of the order, as is the case with respect to exports of BBs by Nippon Pillow Block, consistent with the Sunset Policy Bulletin the Department should find that a dumping margin no higher than the margin found in the most recent review is likely to prevail. Therefore, Nippon Pillow Block suggests that the magnitude of the margin likely to prevail with respect to its exports if the order on BBs were revoked is the 2.30 percent margin from the administrative review covering May 1, 1996, through April 30, 1997.

In their rebuttal comments, Torrington and MPB argue that other parties' comments ignore the Department's stated policies regarding the selection of margins likely to prevail and ignore the Department's duty absorption findings. Citing to the Sunset Policy Bulletin, Torrington and MPB argue that the Department's policies are clear—normal reliance on the margins from the investigation as the only margins that reflect the behavior of exporters without the discipline of the order and rejection of margins from administrative reviews in which the Department found duty absorption. Torrington and MPB argue that the two percent *de minimis* standard is not applicable to sunset reviews. Further, they contend that there is no authority which would authorize or justify the rejection of the investigation rates on the basis of the particular methodology used at the time of the investigation. Additionally, they argue that, with respect to claims that more recent margins should be used based on declining margins accompanied by steady or increasing imports, Torrington and MPB argue that it is the responsibility of such claimants to provide information regarding companies' relative market share. Since no such information was provided, the Department should not accept these assertions. In fact, imports of certain BBs have actually declined since the imposition of the order.

In their rebuttal comments NTN asserts that the inclusion by RBC of margins from companies which do not currently ship to the United States and which have not been the subject of recent reviews is distortive of the current situation. Further, NTN asserts that the responses rely heavily on duty absorption determinations that are the subject of litigation before the Court of International Trade.

We agree with Torrington, MPB, and RBC that, normally, we will provide a margin from the original investigation because that is the rate that reflects the behavior of exporters absent the discipline of the order. As noted above, exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations.

With respect to NSK's argument concerning the magnitude of the margin likely to prevail, we disagree. As discussed above, we do find that there is a likelihood of continuation or recurrence of dumping. Furthermore, we find the level of dumping likely to prevail is best reflected by our dumping margins calculated in the original investigations. Specifically, the Department finds that there is no basis to reject margins calculated in an investigation because of subsequent changes in methodology. Such changes do not invalidate margins calculated under the prior methodology. Therefore, the dumping margins from the original investigation are the only rates which reflect the behavior of exporters without the discipline of the order, regardless of the methodology used to calculate that margin or the use of best information available (*see* section 752(c)(3) of the Act).

With respect to NHBB's argument concerning the dumping margin likely to prevail, the Department disagrees. First, NHBB claims that dumping margins have declined over the lives of the orders and imports have remained steady or increased. However, NHBB provided no evidence to support these claims. Nothing submitted in the course of this sunset proceeding indicates that imports have remained steady or increased. In fact, evidence submitted by Torrington and MPB indicate that imports of the subject merchandise have decreased. Regardless of the level of imports, dumping margins above *de minimis* levels continue as do imports of the subject merchandise; dumping continues to exist.

In the Sunset Policy Bulletin we indicated that, consistent with the SAA at 889–90 and the House Report at 63, we may determine, in cases where declining (or no) dumping margins are accompanied by steady or increasing imports, that a more recently calculated rate reflects that companies do not have to dump to maintain market share in the United States and, therefore, that dumping is less likely to continue or recur if the order were revoked. Alternatively, if a company chooses to increase dumping in order to increase or maintain market share, the Department may provide the Commission with a more recently calculated margin for that company. The Sunset Policy Bulletin provides that we will entertain such considerations in response to argument from an interested party. Further, we noted that, in determining whether a more recently calculated margin is probative of an exporter's behavior absent the discipline of an order, we will normally consider the company's relative market share, with such information to be provided by the parties. It is clear, therefore, that in determining whether a more recently calculated margin is probative of the behavior of exporters were the order revoked, the Department considers company-specific exports and company-specific margins. Additionally, although we expressed a clear preference for market share information, in past sunset reviews where market share information was not available, the Department relied on changes in import volumes between the periods before and after the issuance of the order. *See, e.g.,* Final Results of Expedited Sunset Review: Stainless Steel Plate from Sweden, 63 FR 67658 (December 8, 1998), and Final Results of Expedited Sunset Reviews: Certain Iron Construction Castings From Brazil, Canada, and the People's Republic of China, 64 FR 30310 (June 7, 1999).

In sunset reviews, although we make likelihood determinations on an order-wide basis, we report company-specific margins to the Commission. Therefore, it is appropriate that our determinations regarding the magnitude of the margin likely to prevail be based on company-specific information. Generic arguments that margins decreased over the life of the orders while, at the same time, exporters' share of the U.S. market remained constant do not address the question of whether any particular company decreased its margin of dumping while at the same time maintaining or increasing market share. In fact, such generic argument may disguise company-specific behavior demonstrating increased dumping coupled with increased market share.

In these reviews, only Nippon Pillow Block provided statistics regarding its company-specific exports of BBs both prior to the issuance of the order and for the most recent five years. We reviewed the statistics provided and found that, although its export volume and values fluctuated during the period 1994 through 1998, its exports during 1996 were at an all-time high. Coinciding with this increase, the Department calculated margins for Nippon Pillow Block of 7.87 percent for the May 1995 through April 1996 review and 2.30 percent for the May 1996 through April 1997 review. Further, the Department calculated a margin of 1.20 percent for Nippon Pillow Block during the most recently completed review covering the period May 1997 through April 1998. Given the correlation between increased exports and the decreased margin in the 1996/97 administrative review, we agree with Nippon Pillow Block that a more recently calculated margin may be an appropriate indicator of the magnitude of margin likely to prevail were the order revoked.

The SAA at 885 and the House Report at 60 provide, however, that duty absorption is a strong indicator that the current dumping margins calculated in reviews may not be indicative of the margins that would exist in the absence of an order. Once an order is revoked, the importer could achieve the same pre-revocation return on its sales by lowering its prices in the United States in the amount of the duty that was previously being absorbed. Therefore, in the Sunset Policy Bulletin the Department indicated that it normally will determine that a company's current dumping margin is not indicative of the margin likely to prevail were the order revoked. Further, we indicated that we normally will provide to the Commission the higher of the margin that we would otherwise have reported to the Commission or the most recent margin for that company adjusted to account for our findings on duty absorption.

In their comments, Torrington and MPB argue that the Sunset Policy Bulletin requires that the Department report to the Commission the higher of the margin from the original investigation or the margin from a more recent administrative review adjusted to reflect duty absorption findings. We do not agree. As noted above, the Sunset Policy Bulletin provides that, where we have found duty absorption in an administrative review initiated in 1998 (for transition orders such as these) we will normally select the higher of the margin we would otherwise have reported or the margin adjusted to account for duty absorption findings. With respect to Nippon Pillow Block, as noted above, we would otherwise report to the Commission the margin from the 1996/97 administrative review. The Department was not required to investigate duty absorption during the 1996/97 administrative review; in the 1995/96 and the 1997/98 administrative reviews, the Department found that Nippon Pillow Block was absorbing duties on 55.46 and 9.75 percent of its U.S. affiliate's sales, respectively. Because all of Nippon Pillow Block's U.S. sales were constructed export price sales, total sales and U.S. affiliate's sales are the same. Therefore, for purposes of considering duty absorption, we relied on the level of duty absorption found in the administrative review initiated in 1998. Consistent with the methodology described in the Sunset Policy Bulletin and we used in Preliminary Results of Sunset Review: Porcelain-on-Steel Cooking Ware from Mexico, 64 FR 46651 (August 26, 1999), and Final Results of Expedited Sunset Review: Brass Sheet and Strip from Germany, 64 FR 49767 (September 14, 1999), we adjusted Nippon Pillow Block's margin from the 1996/97 administrative review (the year corresponding to the highest volume of imports) to account for duty absorption. Because the result is higher than the rate we would otherwise report to the Commission, we will report the adjusted rate.

With respect to all other producers/exporters of the subject merchandise, as noted above, there is no evidence on the record to indicate that the margin of dumping for any particular producer/exporter decreased at the same time that it was increasing or maintaining U.S. market share nor is there evidence on the record to indicate corresponding increases in dumping margins and exports. Therefore, we are relying on the margins from the original investigations as probative of the behavior of producers/exporters without the discipline of the orders.

Based on the above analysis, we will report to the Commission the margins indicated in the Final Results of the Review section of this notice.

Final Results of Review

As a result of these reviews, the Department finds that revocation of the antidumping orders would be likely to lead to continuation or recurrence of dumping at the margins listed below:

Manufacturers/Exporters	Margin (Percent)
Ball Bearings:	
Nippon Pillow Block	2.55
Koyo	73.55
Minebea	106.61
Nachi	48.69
NSK	42.99
NTN	21.36
All Other Producers/Exporters	45.83
Cylindrical Roller Bearings:	
Koyo	51.21
Nachi	4.00
NSK	12.28
NTN	9.30
All Other Producers/Exporters	25.80
Spherical Plain Bearings:	
Minebea	84.26
NTN	92.00
All Other Producers/Exporters	84.33

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 19 CFR 351.305 of the Department's regulation. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is sanctionable violation.

This five-year (''sunset'') review and notice are published in accordance with sections 751(c) 777(i)(1) of the Act.

Dated: October 28, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

Appendix A

*The following includes clarifications to the scopes of the Department's various antidumping duty orders on antifriction bearings.

Scope Determinations Made in the Final Determinations of Sales at Less Than Fair Value; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany, 54 FR 19006, 19019 (May 3, 1989):

Products covered:

- Rod end bearings and parts thereof
- AFBs used in aviation applications
- Aerospace engine bearings
- Split cylindrical roller bearings
- Wheel hub units
- Slewing rings and slewing bearings (slewing rings and slewing bearings were subsequently excluded by the International Trade Commission's negative injury determination (*See International Trade Commission: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany, France, Italy, Japan, Romania, Singapore, Sweden, Thailand and the United Kingdom*, 54 FR 21488 (May 18, 1989))
- Wave generator bearings
- Bearings (including mounted or housed units and flanged or enhanced bearings) ultimately utilized in textile machinery

Products excluded:

- Plain bearings other than spherical plain bearings
- Airframe components unrelated to the reduction of friction
- Linear motion devices
- Split pillow block housings
- Nuts, bolts, and sleeves that are not integral parts of a bearing or attached to a bearing under review
- Thermoplastic bearings
- Stainless steel hollow balls
- Textile machinery components that are substantially advanced in function(s) or value
- Wheel hub units imported as part of front and rear axle assemblies; wheel hub units that include tapered roller bearings; and clutch release bearings that are already assembled as parts of transmissions

Scope Rulings Completed Between April 1, 1990, and June 30, 1990 (See Scope Rulings, 55 FR 42750 (October 23, 1990))

Products excluded:

- Antifriction bearings, including integral shaft ball bearings, used in textile machinery and imported with attachments and augmentations sufficient to advance their function beyond load-bearing/friction-reducing capability

Scope Rulings Completed Between July 1, 1990, and September 30, 1990 (See Scope Rulings, 55 FR 43020 (October 25, 1990))

Products covered:

- Rod ends
- Clutch release bearings
- Ball bearings used in the manufacture of helicopters
- Ball bearings used in the manufacture of disk drives

Scope Rulings Published in Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof; Final Results of Antidumping Administrative Review (AFBs I), 56 FR 31692, 31696 (July 11, 1991)

Products covered:

- Load rollers and thrust rollers, also called mast guide bearings
- Conveyor system trolley wheels and chain wheels

Scope Rulings Completed Between April 1, 1991, and June 30, 1991 (See Notice of Scope Rulings, 56 FR 36774 (August 1, 1991))

Products excluded:

- Textile machinery components including false twist spindles, belt guide rollers, separator rollers, damping units, rotor units, and tension pulleys

Scope Rulings Completed Between July 1, 1991, and September 30, 1991 (See Scope Rulings, 56 FR 57320 (November 8, 1991)):

Products covered:

- Snap rings and wire races
- Bearings imported as spare parts
- Custom-made specialty bearings

Products excluded:

- Certain rotor assembly textile machinery components
- Linear motion bearings

Scope Rulings Completed Between October 1, 1991, and December 31, 1991 (See Notice of Scope Rulings, 57 FR 4597 (February 6, 1992))

Products covered:

- Chain sheaves (forklift truck mast components)
- Loose boss rollers used in textile drafting machinery, also called top rollers
- Certain engine main shaft pilot bearings and engine crank shaft bearings

Scope Rulings Completed Between January 1, 1992, and March 31, 1992 (See Scope Rulings, 57 FR 19602 (May 7, 1992))

Products covered:

- Ceramic bearings
- Roller turn rollers
- Clutch release systems that contain rolling elements

Products excluded:

- Clutch release systems that do not contain rolling elements
- Chrome steel balls for use as check valves in hydraulic valve systems

Scope Rulings Completed Between April 1, 1992, and June 30, 1992 (See Scope Rulings, 57 FR 32973 (July 24, 1992))

Products excluded:

- Finished, semiground stainless steel balls
- Stainless steel balls for non-bearing use (in an optical polishing process)

Scope Rulings Completed Between July 1, 1992, and September 30, 1992 (See Scope Rulings, 57 FR 57420 (December 4, 1992))

Products covered:

- Certain flexible roller bearings whose component rollers have a length-to-diameter ratio of less than 4:1
- Model 15BM2110 bearings

Products excluded:

- Certain textile machinery components

Scope Rulings Completed Between October 1, 1992, and December 31, 1992 (See Scope Rulings, 58 FR 11209 (February 24, 1993))

Products covered:

- Certain cylindrical bearings with a length-to-diameter ratio of less than 4:1

Products excluded:

- Certain cartridge assemblies comprised of a machine shaft, a machined housing and two standard bearings

Scope Rulings Completed Between January 1, 1993, and March 31, 1993 (See Scope Rulings, 58 FR 27542 (May 10, 1993))

Products covered:

- Certain cylindrical bearings with a length-to-diameter ratio of less than 4:1

Scope Rulings Completed Between April 1, 1993, and June 30, 1993 (See Scope Rulings, 58 FR 47124 (September 7, 1993))

Products covered:

- Certain series of INA bearings

Products excluded:

- SAR series of ball bearings
- Certain eccentric locking collars that are part of housed bearing units

Scope Rulings Completed Between October 1, 1993, and December 31, 1993 (See Scope Rulings, 59 FR 8910 (February 24, 1994))

Products excluded:

- Certain textile machinery components

Scope Rulings Completed Between January 1, 1994, and March 31, 1994

Products excluded:

- Certain textile machinery components

Scope Rulings Completed Between October 1, 1994 and December 31, 1994 (See Scope Rulings, 60 FR 12196 (March 6, 1995))

Products excluded:

- Rotek and Kaydon—Rotek bearings, models M4 and L6, are slewing rings outside the scope of the order.

Scope Rulings Completed Between April 1, 1995 and June 30, 1995 (See Scope Rulings, 60 FR 36782 (July 18, 1995))

Products covered:

- Consolidated Saw Mill International (CSMI) Inc.—Cambio bearings contained in CSMI's sawmill debarker are within the scope of the order.
- Nakanishi Manufacturing Corp.—Nakanishi's stamped steel washer with a zinc phosphate and adhesive coating used in the manufacture of a ball bearing is within the scope of the order.

Scope Rulings Completed Between January 1, 1996 and March 31, 1996 (See Scope Rulings, 61 FR 18381 (April 25, 1996))

Products covered:

- Marquardt Switches—Medium carbon steel balls imported by Marquardt are outside the scope of the order.

Scope Rulings Completed Between April 1, 1996 and June 30, 1996 (See Scope Rulings, 61 FR 40194 (August 1, 1996))

Products excluded:

- Dana Corporation—Automotive component, known variously as a center bracket assembly, center bearings assembly, support bracket, or shaft support bearing, is outside the scope of the order.
- Rockwell International Corporation—Automotive component, known variously as a cushion suspension unit, cushion assembly unit, or center bearing assembly, is outside the scope of the order.
- Enkotec Company, Inc.—''Main bearings'' imported for incorporation into Enkotec Rotary Nail Machines are slewing rings and, therefore, are outside the scope of the order.

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–401–801]

Final Results of Expedited Sunset Review: Antifriction Bearings From Sweden

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset review: antifriction bearings from Sweden.

SUMMARY: On April 1, 1999, the Department of Commerce (''the Department'') initiated sunset reviews of the antidumping duty orders on ball bearings (''BBs'') and cylindrical roller bearings (''CRBs'') (collectively, antifriction bearings) from Sweden (64 FR 15727) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act'').[1] On the basis of a notice of intent to participate and adequate substantive comments filed on behalf of domestic interested parties and inadequate response (in these cases, no response) from respondent interested parties, the Department determined to conduct expedited sunset reviews. As a result of these reviews, the Department finds that revocation of the antidumping duty orders on antifriction bearings from Sweden would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 4, 1999.

Statute and Regulations

These reviews were conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''), and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—''*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

The products covered by these orders are CRBs and BBs and parts thereof from Sweden. For a detailed description of the products covered by these orders, including a compilation of all pertinent scope determinations, refer to the notice of final results of expedited sunset review on antifriction bearings from Japan (A–588–804), publishing concurrently with this notice.

History of the Order

The Department published its less-than-fair-value (''LTFV'') determination of antifriction bearings from Sweden on May 3, 1989.[2] In this determination, the Department published a weighted-average dumping margin of 105.92 percent for BBs for SKF Sverige AB (''SKF'') and 105.92 percent for all other producers and/or exporters of Swedish BBs. The Department also published a weighted-average dumping margin of 13.69 percent for CRBs for SKF and 13.69 percent for all other producers and/or exporters of Swedish CRBs. Since that time, the Department has conducted eight administrative reviews.[3] These sunset reviews cover

[1] The orders on antifriction bearings from Sweden include CRBs and BBs. The Department has no antidumping duty order on spherical plain bearings from Sweden.

[2] *See Final Determinations of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Needle Roller Bearings, Spherical Plain Bearings, and Tapered Roller Bearings) and Parts Thereof From Sweden; and Final Determinations of Sales at Not Less Than Fair Value: Needle Roller Bearings and Spherical Plain Bearings, and Parts Thereof, From Sweden*, 54 FR 19114 (May 3, 1989); *Notice of Redetermination of Final Margin of Sales at Less Than Fair Value, Pursuant to Court Remand: Ball Bearings and Parts Thereof From Italy and Sweden*, 58 FR 12932 (March 8, 1993).

[3] *See Final Determinations of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Needle Roller Bearings, Spherical Plain Bearings, and Tapered Roller Bearings) and Parts Thereof From Sweden; and Final Determinations of Sales at Not Less Than Fair Value: Needle Roller Bearings and Spherical Plain Bearings, and Parts Thereof, From Sweden*, 54 FR 19114 (May 3, 1989); *Notice of Redetermination of Final Margin of Sales at Less Than Fair Value, Pursuant to Court Remand: Ball Bearings and Parts Thereof From Italy and Sweden*, 58 FR 12932 (March 8, 1993); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Sweden; Final Results of Antidumping Duty Administrative Review*, 56 FR 31762 (July 11, 1991); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany; et al.; Amended Final Results of Antidumping Duty Administrative Reviews*, 62 FR 32755 (June 17, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France; et al.; Final Results of Antidumping Duty Administrative Reviews*, 57 FR 28360 (June 24, 1992); *Antifriction Bearings (Other Than Tapered*

imports from all Swedish producers and/or exporters of antifriction bearings. With respect to duty absorption, the Department issued a duty-absorption finding for SKF for BBs from Sweden in the 1995–1996 administrative review. In addition, the Department determined that SKF was absorbing duties with respect to BBs and CRBs in the 1997–1998 administrative review.[4]

Background

On April 1, 1999, the Department initiated sunset reviews of the antidumping duty orders on antifriction bearings from Sweden (64 FR 15727), pursuant to section 751(c) of the Act. The Department received Notices of Intent to Participate on behalf of The Torrington Company (''Torrington''), MPB Corp. (''MPB''), the Roller Bearing Company of America (''RBC''), the NSK Corp. (''NSK''), New Hampshire Ball Bearings, Inc. (''NHBB''), and Link-Belt Bearing Division (''Link-Belt'') on April 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. We received complete substantive responses from Torrington, MPB, RBC and NHBB on May 3, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). The Department also received the complete substantive response from NSK on April 30, 1999. The Department did not receive a complete substantive response from Link-Belt.[5]

Torrington, MPB, RBC and NHBB claimed interested-party status under 19 U.S.C. 1677(9)(C) as U.S. manufacturers of bearings. NSK claimed interested-party status under 19 U.S.C. 1677(9). In addition, Torrington stated that it was the petitioner in the original investigations and has participated actively in all administrative reviews of these orders. MPB stated that it had participated in the International Trade Commission's (''the Commission'') injury investigations. RBC and NHBB stated that they have not participated previously in any segment of these proceedings before the Department.

On May 3, 1999, the Department received a waiver of participation on behalf of SKF. We did not receive a response from any other respondent interested party to these proceedings. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct expedited, 120-day, reviews of these orders.[6]

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). On August 5, 1999, the Department determined that the sunset reviews of the antidumping duty orders on antifriction bearings from Sweden are extraordinarily complicated and extended the time limit for completion of the final results of these reviews until not later than October 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[7]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted these reviews to determine whether revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order, and shall provide to the Commission the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, interested parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Adequacy

As noted above, we notified the Commission that we intended to conduct expedited reviews of these orders. On June 10, 1999, we received comments on behalf of MPB and Torrington supporting our determination to conduct expedited reviews. NHBB and NSK also submitted comments on whether expedited sunsets review were warranted. In their submissions, both parties assert that most of the domestic interested parties that submitted substantive responses are in favor of revocation of the orders. These parties also offered new arguments regarding the likely effect of revocation of the orders.

The magnitude of domestic support for continuation or revocation of an order, however, does not enter into the Department's determination of adequacy of participation nor, for that matter, the Department's determination of likelihood. The Department made clear in its regulations that a complete substantive response from one domestic interested party would be considered adequate for purpose of continuing a sunset review (*see* section 351.218(e)(1)). Nowhere in the statute or legislative history is there reference to consideration of domestic industry

Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom; Amendment to Final Results of Antidumping Duty Administrative Reviews, 57 FR 32969 (July 24, 1992); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Sweden, and the United Kingdom; Amendment to Final Results of Antidumping Duty Administrative Reviews*, 57 FR 59080 (December 14, 1992); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 8908 (February 23, 1998); *Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order*, 58 FR 39729 (July 26, 1993); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany, Italy, and Sweden; Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 38369 (July 16, 1998); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders*, 60 FR 10900 (February 28, 1995); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 66472 (December 17, 1996); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 54043 (October 17, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 33320 (June 18, 1998); *Final Results of Antidumping Duty Administrative Reviews*, 64 FR 35590 (July 1, 1999).

[4] *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 54043 (October 17, 1997), and *Final Results of Antidumping Duty Administrative Reviews*, 64 FR 35590 (July 1, 1999).

[5] All participants, except Link-Belt and NSK, filed substantive responses on both CRBs and BBs from Sweden. Link-Belt did not file a substantive response to the notice of initiation for either of these sunset reviews. NSK filed a substantive response on only BBs from Sweden.

[6] On May 24, 1999, we informed the Commission that, on the basis of inadequate response from respondent interested parties, we were conducting expedited sunset reviews of these orders consistent with 19 CFR 351.218(e)(1)(ii)(C)(2). (*See* Letter to Lynn Featherstone, Director, Office of Investigations from Jeffrey A. May, Director, Office of Policy.)

[7] *See Tapered Roller Bearings, 4 Inches and Under From Japan, et al.; Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 42672 (August 5, 1999).

support during the course of a sunset review (other than the statutory provision that if there is *no* domestic industry interest in continuation of the order, the Department will revoke the order automatically). In fact, the Senate Report (at Rep. No. 103–412 at 46 (2nd Session 1994)) makes clear that the purpose of adequacy determinations in sunset reviews is for the Department to determine whether to issue a determination based on the facts available without further fact-gathering. Further, the statute, at section 751(c)(1), specifies that the Department is to determine whether revocation of an order would be likely to lead to continuation or recurrence of dumping. Section 752(c) specifies that the Department is to consider the weighted-average dumping margins determined in the investigation and subsequent reviews, as well as the volume of imports of the subject merchandise for the period before and the period after the issuance of the order.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin*, the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.3). In addition, the Department indicated that normally it will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant reviews, the Department received a waiver of participation on behalf of SKF and did not receive a response from any other respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations*, this constitutes a waiver of participation.

In their substantive response, Torrington and MPB argue that revocation of the antidumping duty orders on the subject merchandise would be likely to lead to continuation of dumping. They base this conclusion on the fact that dumping continued at above *de minimis* levels after the issuance of the orders. RBC also argues that, given that dumping margins continue to exist after the issuance of the orders, the Department must conclude that dumping would be likely to continue or recur if the orders were revoked. Torrington and MPB assert further that an examination of import volumes is not necessary because dumping continued.

Torrington and MPB contend, however, that should the Department decide to consider import volumes, Torrington and MPB assert that the data will demonstrate that 1998 import volumes are significantly below the 1988 pre-order volumes. Moreover, according to Torrington and MPB, post-order import volumes are lower than pre-order volumes in every year since the imposition of the orders. Using pre- and post-order statistics for complete unmounted BBs, which Torrington and MPB assert is the only category for which statistics are available on a consistent basis, they argue that post-order declines in import volumes provide strong additional support for a determination that dumping is likely to continue or recur were the orders revoked. In conclusion, Torrington and MPB assert that no ''good cause'' exists to consider other factors, such as sales below the cost of production.

NHBB and NSK assert that revocation of the orders is not likely to result in continuation or recurrence of dumping. NHBB bases its assertion on the fact that dumping would undercut the U.S. domestic price structure, thus causing injury to the very industry of which foreign owners are a part. NSK appears to support its assertion on the basis that the margin of dumping has fallen during the life of the order.

In their rebuttal comments, Torrington and MPB assert that the Department should take into account the submitter's affiliation in its consideration of comments of various parties filing as domestic producers. Further, citing to *Ball Bearings and Parts Thereof From Thailand; Final Results of Changed Circumstances Countervailing Duty Review and Revocation of Countervailing Duty Order*, 61 FR 20799, 20800 (May 8, 1996), they argue that the Department has recognized that domestic producers who are affiliated with subject foreign producers and exporters do not have a common ''stake'' with the petitioner in the maintenance of the order. Additionally, Torrington and MPB argue that other parties' comments addressing issues other than margins and import volumes should not be considered unless such parties establish ''good cause'' to consider such additional factors, which, in these reviews, they have not done.

As discussed in section II.A.3 of the *Sunset Policy Bulletin*, the SAA at 890, and the House Report at 63–64, existence of dumping margins after the order is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline of the order were removed. Thus, as noted above, in determining whether revocation of an order is likely to lead to continuation or recurrence of dumping, the Department considers the margins determined in the investigation and subsequent administrative reviews and the volume of imports. Whatever relevance the arguments of NHBB and NSK concerning possible disincentives for producers and/or exporters to dump in the U.S. market might have had is mooted by the evidence that dumping continues and has continued over the life of the order.

In the instant proceedings, dumping margins above *de minimis* continue to exist with respect to each of the orders. Therefore, given that dumping has continued over the life of the orders and respondent interested parties have waived their right to participate in this review before the Department, we determine that dumping is likely to continue if the orders were revoked. Because we have based this determination on the fact that dumping continued at levels above *de minimis*, we have not addressed the comments submitted by Torrington and MPB with respect to ''good cause,'' nor have we addressed the arguments of other interested parties regarding the condition of the U.S. market.

Magnitude of the Margin

In the *Sunset Policy Bulletin*, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original

investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty-absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department, in its LTFV determinations, published a weighted-average dumping margin of 105.92 percent for BBs for SKF and 105.92 percent for all other producers and/or exporters of Swedish BBs. The Department also published a weighted-average dumping margin of 13.69 percent for CRBs for SKF and 13.69 percent for all other producers and/or exporters of Swedish CRBs. As noted above, the Department issued duty-absorption findings for SKF for BBs from Sweden in the 1995–1996 administrative review and for BBs and CRBs in the 1997–1998 administrative review.[8]

In their substantive responses, Torrington and MPB argue that the margins likely to prevail are those from the Department's original investigations. They also note that the Department issued a duty-absorption finding with respect to BBs from Sweden in the 1995–1996 administrative review and should consider this in determining the margin likely to prevail. Specifically, Torrington and MPB argue that the dumping margins found for each company in the original investigation (as opposed to margins calculated in succeeding annual administrative reviews) are the dumping margins likely to prevail, including margins based on best information available, except where the most current margin, increased by the Department's duty-absorption determination, exceeds the original investigation margin. RBC states that the margins from the original investigations are most probative of the rates likely to prevail as they are the only calculated rates that reflect the behavior of exporters without the discipline of the orders in place.

NHBB argues that the dumping margins likely to prevail if the orders were revoked would be *de minimis*. NHBB goes on to argue that it would be illogical for companies with significant U.S. bearings investments to undercut that investment by dumping. In addition, NHBB argues that the Department should not report margins from the original investigation. In support of this argument, NHBB notes that the SAA provides that, in certain instances, it is more appropriate to rely on a more recently calculated margin. NHBB asserts that one such instance is where, as in the antifriction bearings cases, dumping margins have declined over the life of the order and imports have remained steady or increased. Finally, NHBB argues that, in light of changes in the methodology used to calculated antidumping duty margins introduced by the Uruguay Round, use of margins calculated by the Department prior to the URAA would be unfair and would be contrary to the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

Similarly, NSK argues that the margins likely to prevail would be *de minimis*. As support, NSK argues that, were the order not in existence, the Department would apply the average-to-average methodology used in an investigation, as opposed to the transaction-to-average methodology common to administrative reviews, to measure the extent of any dumping. In such a case, NSK states that it believes any margin found would be below the 2.0 percent *de minimis* level applicable in investigations. NSK argues further that the Department's unorthodox approach during the original investigation, plus the liberal use of best information available, skewed the results of the original investigation seriously, rendering those results inappropriate indicators of the magnitude of the margin likely to prevail were the orders revoked. Finally, NSK also argues that dumping margins have declined over time with respect to BBs while, at the same time, imports have remained at or around 20 percent of the U.S. market. As support, NSK cites to *The Economic Effects of Antidumping and Countervailing Duty Orders and Suspension Agreements*, USITC Pub. 2900, Inv. No. 332–334, at 14–26—14–31 (June 1995).

In their rebuttal comments, Torrington and MPB argue that other parties' comments ignore the Department's stated policies regarding the selection of margins likely to prevail and ignore the Department's duty-absorption findings. Citing to the *Sunset Policy Bulletin*, Torrington and MPB argue that the Department's policies are clear—normal reliance on the margins from the investigation as the only margins that reflect the behavior of exporters without the discipline of the order and rejection of margins from administrative reviews in which the Department found duty absorption. Torrington and MPB argue that the two-percent *de minimis* standard is not applicable to sunset reviews. Further, they contend that there is no authority which would authorize or justify the rejection of the investigation rate on the basis of the particular methodology used at the time of the investigation. Additionally, with respect to claims that more recent margins should be used based on declining margins accompanied by steady or increasing imports, Torrington and MPB argue that it is the responsibility of such claimants to provide information regarding companies' relative market share. Since no such information was provided, they contend, the Department should not accept these assertions. In fact, they assert, imports of BBs have actually declined since the imposition of the orders.

We agree with Torrington, MPB, and RBC that, normally, we will provide the Commission with a margin from the original investigation because that is the rate that reflects the behavior of exporters absent the discipline of the order. As noted above, exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty-absorption determinations.

With respect to NSK's argument concerning the magnitude of the margin likely to prevail, we disagree. As discussed above, we do find that there is a likelihood of continuation or recurrence of dumping. Furthermore, we find the level of dumping likely to prevail is best reflected by the dumping margins calculated in the original investigations. Specifically, the Department finds that there is no basis to reject margins calculated in an investigation due to subsequent changes in methodology because such changes do not invalidate margins calculated under the prior methodology. Therefore, the dumping margins from the original investigations are the only rates which reflect the behavior of exporters without the discipline of the orders, regardless of the methodology used to calculate those margins or the use of best information available (*see* section 752(c)(3) of the Act).

With respect to NHBB's argument concerning the dumping margin likely to prevail, the Department disagrees. First, NHBB claims that dumping margins have declined over the lives of

[8] *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 62 FR 54043 (October 17, 1997); *Final Results of Antidumping Duty Administrative Reviews,* 64 FR 35590 (July 1, 1999).

the orders and imports have remained steady or increased. However, NHBB provided no evidence to support these claims. Nothing submitted in the course of these sunset proceedings indicates that imports have remained steady or increased. In fact, evidence submitted by Torrington and MPB indicate that post-order import volumes (1989–1998) are lower than pre-order volumes (1989) in each year. Furthermore, the Department finds no consistent downward trend in dumping margins over the lives of the orders with respect to either BBs or CRBs from Sweden. Regardless of the level of imports, dumping margins above *de minimis* levels continue as do imports of the subject merchandise; dumping continues to exist.

In the *Sunset Policy Bulletin* we indicated that, consistent with the SAA at 889–90 and the House Report at 63, we may determine, in cases where declining (or no) dumping margins are accompanied by steady or increasing imports, that a more recently calculated rate reflects that companies do not have to dump to maintain market share in the United States and, therefore, that dumping is less likely to continue or recur if the order were revoked. Alternatively, if a company chooses to increase dumping in order to increase or maintain market share, the Department may provide the Commission with a more recently calculated margin for that company. The *Sunset Policy Bulletin* provides that we will entertain such considerations in response to arguments from an interested party. Further, we noted that, in determining whether a more recently calculated margin is probative of an exporters behavior absent the discipline of an order, we normally will consider the company's relative market share, with such information to be provided by the parties. It is clear, therefore, that in determining whether a more recently calculated margin is probative of the behavior of exporters were the order revoked, the Department considers company-specific exports and company-specific margins. Additionally, although we expressed a clear preference for market-share information, in past sunset reviews where market-share information was not available, we relied on changes in import volumes between the periods before and after the issuance of the order. (*See, e.g., Final Results of Expedited Sunset Review: Stainless Steel Plate from Sweden*, 63 FR 67658 (December 8, 1998), and *Final Results of Expedited Sunset Reviews: Certain Iron Construction Castings From Brazil, Canada, and the People's Republic of China*, 64 FR 30310 (June 7, 1999).)

In sunset reviews, although we make likelihood determinations on an order-wide basis, we report company-specific margins to the Commission. Therefore, it is appropriate that our determinations regarding the magnitude of the margin likely to prevail be based on company-specific information. Generic arguments that margins decreased over the life of the orders while, at the same time, exporters' share of the U.S. market remained constant do not address the question of whether any particular company decreased its margin of dumping while at the same time maintaining or increasing market share. In fact, such generic arguments may disguise company-specific behavior demonstrating increased dumping coupled with increased market share. In these reviews, we did not receive any such company-specific arguments.

In their comments, Torrington and MPB argue that the Department should report to the Commission the higher of the margin from the original investigation or the margin from a more recent final results of administrative review, adjusted to reflect the finding of duty absorption. In the instant cases, the Department agrees. As noted above, the Department determined in the final results of the 1995–96 administrative review of BBs that SKF was absorbing duties.[9] Furthermore, the Department determined in the final results of the 1997–1998 administrative review of BBs and CRBs that SKF was absorbing duties.[10] Therefore, consistent with the statute and the *Sunset Policy Bulletin*, the Department will notify the Commission of its findings regarding duty absorption when conducting a sunset review.

Additionally, the *Sunset Policy Bulletin* refers to the SAA at 885 and the House Report at 60 and provides that, where the Department has found duty absorption, the Department normally will provide to the Commission the higher of the margin that the Department otherwise would have reported or the most recent margin for that company, adjusted to account for the Department's findings on duty absorption. In the case of BBs from Sweden in both the 1995–1996 and 1997–1998 administrative reviews, the margins adjusted to account for duty-absorption findings are less than the margins we would otherwise report to the Commission. In the case of CRBs from Sweden in the 1997–1998 administrative review, SKF's margins adjusted to account for duty-absorption findings are higher than the margins we would otherwise report to the Commission.

Therefore, the Department agrees with the domestic interested parties concerning the margins likely to prevail. We find that the dumping margin calculated in the original investigation for BBs is the only calculated rate that reflects the behavior of exporters without the discipline of the order. With respect to CRBs produced and/or exported by SKF, the Department finds that the margin adjusted for the Department's duty-absorption findings from the 1997–1998 administrative review is the most appropriate to report to the Commission. Consistent with the *Sunset Policy Bulletin*, we will report to the Commission the company-specific and ''all others'' rates for BBs from the original investigation and the adjusted margin from the 1997–1998 administrative review for CRBs produced and/or exported by SKF. These margins are contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of these reviews, the Department finds that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/ Exporter	Margin (percent)
For BBs:	
SKF	105.92
All Other Producers/Exporters	105.92
For CRBs:	
SKF	27.38
All Other Producers/Exporters	13.69

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

[9] *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 54043 (October 17, 1997).

[10] *See Final Results of Antidumping Duty Administrative Reviews*, 64 FR 35590 (July 1, 1999).

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 28, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28771 Filed 11–3–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–559–801]

Final Results of Expedited Sunset Review: Ball Bearings From Singapore

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Notice of final Results of expedited sunset review: ball bearings from Singapore.

SUMMARY: On April 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty order on ball bearings (''BBs'') from Singapore (64 FR 15727) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and adequate substantive comments filed on behalf of domestic interested parties and inadequate response (in this case, no response) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 4, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''), and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

The products covered by this order are BBs and parts thereof from Singapore. For a detailed description of the products covered by this order, including a compilation of all pertinent scope determinations, refer to the notice of final results of expedited sunset review on antifriction bearings from Japan (A–588–804), publishing concurrently with this notice.

History of the Order

The Department published its less-than-fair-value (''LTFV'') determination of BBs from Singapore on May 3, 1989.[1] In this determination, the Department published a weighted-average dumping margin of 25.08 percent for NMB/Pelmec Singapore (''NMB/Pelmec''). The Department also published an all others rate of 25.08. Since that time, the Department has conducted eight administrative reviews.[2] This sunset review covers imports from all Singaporean producers and/or exporters of BBs. With respect to duty absorption, the Department issued a duty absorption finding for NMB/Pelmec in the 1995–1996 administrative review.[3]

Background

On April 1, 1999, the Department initiated a sunset review of the antidumping duty order on BBs from Singapore (64 FR 15727), pursuant to section 751(c) of the Act. The Department received Notices of Intent to Participate on behalf of The Torrington Company (''Torrington''), MPB Corp. (''MPB''), the Roller Bearing Company of America (''RBC''), NSK Corp. (''NSK''), New Hampshire Ball Bearings, Inc. (''NHBB'') and Link-Belt Bearing Division (''Link-Belt'') on April 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations.* We received a complete substantive response from Torrington, MPB, RBC, and NHBB on May 3, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). The Department received the complete substantive response from NSK on April 30, 1999. The Department did not receive a

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[1] *See Final Determination of Sales at Less Than Fair Value: Ball Bearings and Parts Thereof From Singapore,* 52 FR 19112 (May 3, 1989).

[2] *See Final Determination of Sales at Less Than Fair Value: Ball Bearings and Parts Thereof From Singapore,* 52 FR 19112 (May 3, 1989); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Singapore; Final Results of Antidumping Duty Administrative Review,* 56 FR 31759 (July 11, 1991); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany; et al.; Amended Final Results of Antidumping Duty Administrative Reviews,* 62 FR 32755 (June 17, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France; et al.; Final Results of Antidumping Duty Administrative Reviews,* 57 FR 28360 (June 24, 1992); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom; Amendment to Final Results of Antidumping Duty Administrative Reviews,* 57 FR 32969 (July 24, 1992); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Amended Final Results of Antidumping Duty Administrative Reviews,* 63 FR 8908 (February 23, 1998); *Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order,* 58 FR 39729 (July 26, 1993); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Amended Final Results of Antidumping Duty Administrative Reviews,* 63 FR 18877 (April 16, 1998); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders,* 60 FR 10900 (February 28, 1995); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders,* 61 FR 66472 (December 17, 1996); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Singapore: Amended Final Results of Antidumping Duty Administrative Review,* 61 FR 68228 (December 27, 1996); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 62 FR 2081 (January 15, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, and Singapore; Amended Final Results of Antidumping Duty Administrative Reviews;* 62 FR 14391 (March 26, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 62 FR 54043 (October 17, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore; Sweden and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews,* 62 FR 61963 (November 20, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 63 FR 33320 (June 18, 1998).

[3] *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 62 FR 54043 (October 17, 1997).

complete substantive response from Link-Belt.

Torrington, MPB, RBC, and NHBB claimed interested party status under 19 U.S.C. 1677(9)(C) as U.S. manufacturers of BBs. NSK claimed interested party status under 19 U.S.C. 1677(9). In addition, Torrington stated that it was the petitioner in the original investigation and has participated actively in all administrative reviews of this order. MPB stated that it had participated in the International Trade Commission's (the ''Commission'') injury investigation. RBC and NHBB stated that they have not participated previously in any segment of this proceeding before the Department. We did not receive a substantive response from any respondent interested party to this proceeding. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct an expedited, 120-day, review of this order.[4]

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.,* an order in effect on January 1, 1995). Therefore, on August 5, 1999, the Department determined that the sunset review of the antidumping duty order on BBs from Singapore is extraordinarily complicated and extended the time limit for completion of the final results of this review until not later than October 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[5]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order, and it shall provide to the Commission the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, interested parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Adequacy

As noted above, we notified the Commission that we intended to conduct an expedited review of this order. On June 10, 1999, we received comments on behalf of MPB and Torrington supporting our determination to conduct an expedited review. NHBB and NSK also submitted comments on whether an expedited sunset review was warranted. In their submissions, both parties assert that most of the domestic interested parties that submitted substantive responses are in favor of revocation of the Department's various antidumping duty orders on antifriction bearings. These parties also offered new argument regarding the likely effect of revocation of these orders.

The magnitude of domestic support for continuation or revocation of an order, however, does not enter into the Department's determination of adequacy of participation nor, for that matter, the Department's determination of likelihood. The Department made clear in its regulations that a complete substantive response from one domestic interested party would be considered adequate for purpose of continuing a sunset review (see section 351.218(e)(1)). Nowhere in the statute or legislative history is there reference to consideration of domestic industry support during the course of a sunset review (other than the statutory provision that if there is *no* domestic industry interest in continuation of the order, the Department will revoke the order automatically). In fact, the Senate Report (at Rep. No. 103–412 at 46 (2nd Session 1994)) makes clear that the purpose of adequacy determinations in sunset reviews is for the Department to determine whether to issue a determination based on the facts available without further fact-gathering. Further, the statute, at section 751(c)(1), specifies that the Department is to determine whether revocation of an order would be likely to lead to continuation or recurrence of dumping. Section 752(c) specifies that the Department is to consider the weighted average dumping margins determined in the investigation and subsequent reviews, as well as the volume of imports of the subject merchandise for the period before and the period after the issuance of the order.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin,* the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.3). In addition, the Department indicated that normally it will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations,* this constitutes a waiver of participation.

In their substantive response, Torrington and MPB argue that revocation of the antidumping duty order on the subject merchandise would be likely to lead to continuation of dumping. They base this conclusion on the fact that dumping continued at levels above *de minimis* after the issuance of the order. RBC also argues that, given that dumping margins continue to exist after the issuance of the order, the Department must conclude that dumping would be likely to continue or recur if the order were revoked. Torrington and MPB assert further that an examination of import

[4] On May 21, 1999, we informed the Commission that, on the basis of inadequate response from respondent interested parties, we were conducting an expedited sunset review of this order consistent with 19 CFR 351.218(e)(1)(ii)(C)(2). (*See* Letter to Lynn Featherstone, Director, Office of Investigations from Jeffrey A. May, Director, Office of Policy.)

[5] *See Tapered Roller Bearings, 4 Inches and Under From Japan, et al.; Extension of Time Limit for Final Results of Five-Year Reviews,* 64 FR 42672 (August 5, 1999).

volumes is not necessary because dumping continued.

Should the Department decide to consider import volumes, Torrington and MPB assert that the data will demonstrate that 1998 import volumes of the subject merchandise are more than nineteen percent below the 1988 pre-order volumes. Using pre-and post-order statistics for complete unmounted BBs, which Torrington and MPB assert is the only category for which statistics are available on a consistent basis, they argue that post-order declines in import volumes provide strong additional support for a determination that dumping is likely to continue or recur were the order revoked. In conclusion, Torrington and MPB assert that no ''good cause'' exists to consider other factors, such as sales below the cost of production.

NHBB and NSK assert that revocation of the order is not likely to result in continuation or recurrence of dumping. NHBB bases its assertion on the fact that dumping would undercut the U.S. domestic price structure, thus causing injury to the very industry of which foreign owners are a part. NSK appears to support its assertion on the basis that the margin of dumping has fallen during the life of the order.

In their rebuttal comments, Torrington and MPB assert that the Department should take into account the submitter's affiliation in its consideration of comments of various parties filing as domestic producers. Further, citing to *Ball Bearings and Parts Thereof From Thailand; Final Results of Changed Circumstances Countervailing Duty Review and Revocation of Countervailing Duty Order,* 61 FR 20799, 20800 (May 8, 1996), they argue that the Department has recognized that domestic producers who are affiliated with subject foreign producers and exporters do not have a common ''stake'' with the petitioner in the maintenance of the order. Additionally, Torrington and MPB argue that other parties' comments addressing issues other than margins and import volumes should not be considered unless such parties establish ''good cause'' to consider such additional factors, which, in these reviews, they have not done.

As discussed in section II.A.3 of the *Sunset Policy Bulletin,* the SAA at 890, and the House Report at 63–64, existence of dumping margins after the order is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline of the order were removed. Thus, as noted above, in determining whether revocation of an order is likely to lead to continuation or recurrence of dumping, the Department considers the margins determined in the investigation and subsequent administrative reviews and the volume of imports. Whatever relevance the arguments of NHBB and NSK concerning possible disincentives for producers and/or exporters to dump in the U.S. market might have had is mooted by the evidence that dumping continues and has continued over the life of the order.

Dumping margins above *de minimis* continue to exist. Therefore, given that dumping has continued over the life of the order and respondent interested parties have waived their right to participate in this review before the Department, we determine that dumping is likely to continue if the order were revoked. Because we have based this determination on the fact that dumping has continued at levels above *de minimis,* we have not addressed the comments submitted by Torrington and MPB with respect to ''good cause,'' nor have we addressed the arguments of other interested parties regarding the condition of the U.S. market.

Magnitude of the Margin

In the *Sunset Policy Bulletin,* the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin.*) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin.*)

The Department, in the LTFV determination of BBs from Singapore, published a weighted-average dumping margin of 25.08 for NMB/Pelmec. In addition, the Department also published a weighted-average dumping margin of 25.08 percent on all other imports of the subject merchandise from Singapore.[6] As noted above, the Department issued a duty absorption finding for NMB/Pelmec in the 1995–1996 administrative review with respect to BBs from Singapore.

In their substantive response, Torrington and MPB argue that the margins likely to prevail are those from the Department's original investigation. They also note that the Department issued a duty absorption finding with respect to BBs from Singapore in the 1995–1996 administrative review and should consider this in determining the margin likely to prevail. Specifically, Torrington and MPB argue that the dumping margins found for each company in the original investigation (as opposed to margins calculated in succeeding annual administrative reviews) are the dumping margins likely to prevail, including margins based on best information available, except where the most current margin, increased by the Department's duty absorption determination, exceeds the original investigation margin. Furthermore, RBC states that the margins from the original investigation are most probative of the rates likely to prevail as they are the only calculated rates that reflect the behavior of exporters without the discipline of the order in place.

NHBB argues that the dumping margins likely to prevail if the order were revoked would be *de minimis.* NHBB goes on to argue that it would be illogical for companies with significant U.S. bearings investments to undercut that investment by dumping. In addition, NHBB argues that the Department should not report margins from the original investigation to the Commission. In support of this argument, NHBB notes that the SAA provides that, in certain instances, it is more appropriate to rely on a more recently calculated margin. NHBB asserts that one such instance is where, as in the antifriction bearings cases, dumping margins have declined over the life of the order and imports have remained steady or increased. Finally, NHBB argues that, in light of changes in the methodology used to calculate antidumping duty margins introduced by the Uruguay Round, use of margins calculated by the Department prior to the URAA would be unfair and would be contrary to the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

Similarly, NSK argues that the margins likely to prevail would be *de minimis.* As support, NSK argues that, were the order not in existence, the Department would apply the average-to-average methodology used in an investigation, as opposed to the transaction-to-average methodology common to administrative reviews, to

[6] *See Final Determination of Sales at Less Than Fair Value: Ball Bearings and Parts Thereof From Singapore,* 52 FR 19112 (May 3, 1989).

measure the extent of any dumping. In such a case, NSK states that it believes any margin found would be below the two percent *de minimis* level applicable in investigations. NSK argues further that, the Department's unorthodox approach during the original investigation, plus the liberal use of best information available, skewed the results of the original investigation seriously, rendering those results inappropriate indicators of the magnitude of the margin likely to prevail were the order revoked. Finally, NSK also argues that dumping margins have declined over time with respect to BBs while, at the same time, imports have remained at or around 20 percent of the U.S. market. As support, it cites to *The Economic Effects of Antidumping and Countervailing Duty Orders and Suspension Agreements,* USITC Pub. 2900, Inv. No. 332–334, at 14–26—14–31 (June 1995).

In their rebuttal comments, Torrington and MPB argue that other parties' comments ignore the Department's stated policies regarding the selection of margins likely to prevail and ignore the Department's duty absorption findings. Citing to the *Sunset Policy Bulletin,* Torrington and MPB argue that the Department's policies are clear—normal reliance on the margins from the investigation as the only margins that reflect the behavior of exporters without the discipline of the order and rejection of margins from administrative reviews in which the Department found duty absorption. Torrington and MPB argue that the two percent *de minimis* standard is not applicable to sunset reviews. Further, they contend that there is no authority which would authorize or justify the rejection of the investigation rate on the basis of the particular methodology used at the time of the investigation. Additionally, they argue that, with respect to claims that more recent margins should be used based on declining margins accompanied by steady or increasing imports, Torrington and MPB argue that it is the responsibility of such claimants to provide information regarding companies' relative market share. Since no such information was provided, they assert that the Department should not accept these assertions, given that, imports BBs from Singapore have actually declined since the imposition of the order.

We agree with Torrington, MPB, and RBC that, normally, we will provide a margin from the original investigation because that is the rate that reflects the behavior of exporters absent the discipline of the order. As noted above, exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations.

With respect to NSK's argument concerning the magnitude of the margin likely to prevail, we disagree. As discussed above, we do find that there is a likelihood of continuation or recurrence of dumping. Furthermore, we find the level of dumping likely to prevail is best reflected by the Department's dumping margins we calculated in the original investigation. Specifically, the Department finds that there is no basis to reject margins calculated in an investigation because of subsequent changes in methodology. Such changes do not invalidate margins calculated under the prior methodology. Therefore, the dumping margins from the original investigation are the only rates which reflect the behavior of exporters without the discipline of the order, regardless of the methodology used to calculate that margin or the use of best information available (*see* section 752(c)(3) of the Act).

With respect to NHBB's argument concerning the dumping margin likely to prevail, the Department disagrees. First, NHBB claims that dumping margins have declined over the life of the order and imports have remained steady or increased. However, NHBB provided no evidence to support these claims. Nothing submitted in the course of this sunset proceeding indicates that imports have remained steady or increased. In fact, evidence submitted by Torrington and MPB indicate that 1998 import volumes of the subject merchandise are more than nineteen percent below pre-order volumes. Regardless of the level of imports, dumping margins above *de minimis* levels continue as do imports of the subject merchandise; dumping continues to exist.

In the *Sunset Policy Bulletin* we indicated that, consistent with the SAA at 889–90 and the House Report at 63, we may determine, in cases where declining (or no) dumping margins are accompanied by steady or increasing imports, that a more recently calculated rate reflects that companies do not have to dump to maintain market share in the United States and, therefore, that dumping is less likely to continue or recur if the order were revoked. Alternatively, if a company chooses to increase dumping in order to increase or maintain market share, the Department may provide the Commission with a more recently calculated margin for that company. The *Sunset Policy Bulletin* provides that we will entertain such considerations in response to arguments from an interested party. Further, we noted that, in determining whether a more recently calculated margin is probative of an exporters behavior absent the discipline of an order, we will normally consider the company's relative market share, with such information to be provided by the parties. It is clear, therefore, that in determining whether a more recently calculated margin is probative of the behavior of exporters were the order revoked, the Department considers company-specific exports and company-specific margins. Additionally, although we expressed a clear preference for market share information, in past sunset reviews where market share information was not available, we relied on changes in import volumes between the periods before and after the issuance of the order. (*See, e.g., Final Results of Expedited Sunset Review: Stainless Steel Plate from Sweden,* 63 FR 67658 (December 8, 1998), and *Final Results of Expedited Sunset Reviews: Certain Iron Construction Castings From Brazil, Canada, and the People's Republic of China,* 64 FR 30310 (June 7, 1999).)

In sunset reviews, although we make likelihood determinations on an order-wide basis, we report company-specific margins to the Commission. Therefore, it is appropriate that we base our determinations regarding the magnitude of the margin likely to prevail on company-specific information. Generic arguments that margins decreased over the life of the orders while, at the same time, exporters' share of the U.S. market remained constant do not address the question of whether any particular company decreased its margin of dumping while at the same time maintaining or increasing market share. In fact, such generic argument may disguise company-specific behavior demonstrating increased dumping coupled with increased market share. In this review, we did not receive any such company-specific arguments.

As noted above, the Department determined in the final results of the 1995–1996 administrative review that NMB/Pelmec was absorbing duties.[7] Consistent with the statute and the *Sunset Policy Bulletin,* the Department will notify the Commission of its findings regarding duty absorption when conducting a sunset review.

Additionally, the *Sunset Policy Bulletin* refers to the SAA at 885 and the House Report at 60 and provides that,

[7] *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 62 FR 54043 (October 17, 1997).

where the Department has found duty absorption, the Department will normally provide to the Commission the higher of the margin that the Department otherwise would have reported or the most recent margin for that company, adjusted to account for our findings on duty absorption. In this case, the margins adjusted to account for the Department's duty absorption findings are less than the margins we would otherwise report to the Commission.

Therefore, the Department agrees with the domestic interested parties concerning the margin likely to prevail if the order were to be revoked. We find that the dumping margins calculated in the original investigation are the only calculated rates that reflect the behavior of exporters without the discipline of the order. Consistent with the *Sunset Policy Bulletin,* we determine that the margin calculated in the Department's original investigation is probative of the behavior of Singaporean producers and exporters of BBs if the order were revoked. Therefore, we will report to the Commission the company-specific and ''all others'' rates from the original investigation contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the margin listed below:

Manufacturer/ Exporter	Margin (percent)
NMB/Pelmec	25.08
All Other Producers/Exporters ..	25.08

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 28, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28772 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–801]

Final Results of Expedited Sunset Review: Cylindrical Roller Bearings From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset review: cylindrical roller bearings from Italy.

SUMMARY: On April 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty order on cylindrical roller bearings (''CRBs'') from Italy (64 FR 15727) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and adequate substantive comments filed on behalf of domestic interested parties and inadequate response from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 4, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''), and 19 CFR Part 351(1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

The products covered by this order are CRBs and parts thereof from Italy. For a detailed description of the products covered by this order, including a compilation of all pertinent scope determinations, refer to the notice of final results of expedited sunset reviews on antifriction bearings from Japan (A–588–804), publishing concurrently with this notice.

History of the Order

The Department published its less-than-fair-value (''LTFV'') determination on CRBs from Italy on May 3, 1989.[1] In this determination, the Department published a weighted-average dumping margin of 212.45 percent for SKF Industrie S.p.A. (''SKF''). The Department also published an all others rate of 212.45 percent. Since that time, the Department has conducted nine administrative reviews.[2] This sunset

[1] *See Final Determinations of Sales at Less Than Fair Value; Antifriction Bearings (Other Than Spherical Plain and Tapered Roller Bearings) and Parts Thereof From Italy; and Final Determination of Sales at Not Less Than Fair Value; Spherical Plain Bearings and Parts Thereof, From Italy,* 54 FR 19096 (May 3, 1989). This determination was subsequently amended. *See Notice of Redetermination of Final Margin of Sales at Less Than Fair Value, Pursuant to Court Remand: Ball Bearings and Parts Thereof From Italy and Sweden,* 54 FR 20910 (March 8, 1993).

[2] *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Final Results of Antidumping Duty Administrative Reviews,* 56 FR 31751 (July 11, 1991); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany; et al.; Amended Final Results of Antidumping Duty Administrative Reviews,* 62 FR 32755 (June 17, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France; et al.; Final Results of Antidumping Duty Administrative Reviews,* 57 FR 28360 (June 24, 1992); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom; Amendment to Final Results of Antidumping Duty Administrative Reviews,* 57 FR 32969 (July 24, 1992); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Sweden, and the United Kingdom; Amendment to Final Results of Antidumping Duty Administrative Reviews,* 57 FR 59080 (December 14, 1992); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Amended Final Results of Antidumping Duty Administrative Reviews,* 63 FR 8908 (February 23, 1998); *Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order,* 58 FR 39729 (July 26, 1993); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Amendment to Final Results of Antidumping Duty Administrative Review,* 58 FR 53914 (October 19, 1993); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France and Italy; Amendment to Final Results of Antidumping Duty Administrative Reviews,* 58 FR 65576 (December 15, 1993); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Amended Final Results of*

Continued

review covers imports from all Italian producers and/or exporters of CRBs, excluding those imports from SKF.[3] We note that, to date, we have made no duty absorption findings with regards to CRBs from Italy.[4]

Antidumping Duty Administrative Reviews, 63 FR 18877 (April 16, 1998); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany, Italy, and Sweden; Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 38369 (July 16, 1998); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 70100 (December 18, 1998); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order*, 60 FR 10959 (February 28, 1995); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany and Italy; Amended Final Results of Antidumping Duty Administrative Reviews*, 60 FR 31142 (June 13, 1995); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from Italy; Amended Final Results of Antidumping Duty Administrative Review*, 60 FR 33791 (June 29, 1995); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 66472 (December 17, 1996); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany, Italy, Japan, and the United Kingdom: Amended Final Results of Antidumping Duty Administrative Reviews*, 62 FR 3003 (January 21, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 2081(January 15, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, and Singapore; Amended Final Results of Antidumping Duty Administrative Reviews*, (March 26, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 54043 (October 17, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 33320 (June 18, 1998); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy, Romania, and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 40878 (July 31, 1998).

[3] The order was revoked with respect to SKF. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Final Results of Administrative Reviews and Revocation in Part of Antidumping Duty Order*, 60 FR 10959 (February 28, 1995).

[4] The Department has issued duty absorption findings for two producers and/or exporters of ball bearings from Italy in the 1995–1996 and 1997–1998 administrative reviews. However, no duty absorption findings have been issued with respect to CRBs from Italy. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 54043 (October 17, 1997); *Final Results of Antidumping Duty Administrative Reviews*, 64 FR 35590 (July 1, 1999).

Background

On April 1, 1999, the Department initiated a sunset review of the antidumping duty order on CRBs from Italy (64 FR 15727), pursuant to section 751(c) of the Act. The Department received Notices of Intent to Participate on behalf of The Torrington Company (''Torrington'') and MPB Corp. (''MPB''), and on behalf of the Roller Bearing Company of America (''RBC''), New Hampshire Ball Bearings, Inc. (''NHBB''), and Link-Belt Bearing Division (''Link-Belt'') on April 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. We received a complete substantive response from the domestic interested parties on May 3, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). We did not receive a complete substantive response from Link-Belt.

Torrington, MPB, RBC, and NHBB claimed interested party status under 19 U.S.C. 1677(9)(C) as U.S. manufacturers of CRBs. In addition, Torrington stated that it was the petitioner in the original investigation and has participated actively in all administrative reviews of this order. MPB stated that it participated in the Commission's injury investigation. RBC and NHBB stated that they had not previously participated in any segment of this proceeding before the Department.

The Department also received a complete substantive response from FAG Italia S.p.A and FAG Bearings Corporation (collectively, ''FAG'') on May 3, 1999. FAG stated that it participated in the original investigation and each subsequent administrative review of the Department's proceeding on CRBs from Italy.

Based on the information submitted by FAG concerning the volume and value of its exports and volume of imports as reported in U.S. Census Bureau IM146 Reports, the Department determined that FAG's exports of subject merchandise to the United States accounted for less than 50 percent of the total volume of subject merchandise to the United States over the five calendar years preceding the initiation of this sunset review.[5] Therefore, respondent interested parties provided inadequate response to the notice of initiation and, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct an expedited, 120-day, review of this order.[6]

[5] FAG stated that it has not sold any CRBs in the United States over the past five years.

[6] On May 24, 1999, the Department informed the Commission that, on the basis of inadequate response from respondent interested parties, it was conducting an expedited sunset review of this order consistent with 19 CFR 351.218(e)(1)(ii)(C)(2). (*See* Letter to Lynn Featherstone, Director, Office of Investigations from Jeffrey A. May, Director, Office of Policy.)

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). Therefore, on August 5, 1999, the Department determined that the sunset review of the antidumping duty order on CRBs from Italy is extraordinarily complicated and extended the time limit for completion of the final results of this review until not later than October 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[7]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order, and it shall provide to the Commission the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, interested parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Adequacy

As noted above, we notified the Commission that we intended to conduct an expedited review of this order. On June 10, 1999, we received comments on behalf of MPB and Torrington supporting our determination to conduct an expedited review. NHBB also submitted comments on whether an expedited sunset review was warranted. In its submission, it asserts that most of the domestic interested parties that submitted substantive responses are in favor of revocation of the Department's various

[7] *See Tapered Roller Bearings, 4 Inches and Under From Japan, et al.; Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 42672 (August 5, 1999).

antidumping duty orders on antifriction bearings. NHBB also offered new argument regarding the likely effect of revocation of these orders.

The magnitude of domestic support for continuation or revocation of an order, however, does not enter into the Department's determination of adequacy of participation nor, for that matter, the Department's determination of likelihood. The Department made clear in its regulations that a complete substantive response from one domestic interested party would be considered adequate for purpose of continuing a sunset review (see section 351.218(e)(1)). Nowhere in the statute or legislative history is there reference to consideration of domestic industry support during the course of a sunset review (other than the statutory provision that if there is *no* domestic industry interest in continuation of the order, the Department will revoke the order automatically). In fact, the Senate Report (at Rep. No. 103–412 at 46 (2nd Session 1994)) makes clear that the purpose of adequacy determinations in sunset reviews is for the Department to determine whether to issue a determination based on the facts available without further fact-gathering. Further, the statute, at section 751(c)(1), specifies that the Department is to determine whether revocation of an order would be likely to lead to continuation or recurrence of dumping. Section 752(c) specifies that the Department is to consider the weighted-average dumping margins determined in the investigation and subsequent reviews, as well as the volume of imports of the subject merchandise for the period before and the period after the issuance of the order.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin,* the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.3). In addition, the Department indicated that it will normally determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

In their substantive responses, Torrington and MPB argue that revocation of the antidumping duty order on the subject merchandise would be likely to lead to continuation of dumping. They base this conclusion on the fact that dumping continued at levels above *de minimis* after the issuance of the order. RBC also argues that, given that dumping margins continue to exist after the issuance of the order, the Department must conclude that dumping would be likely to continue or recur if the order were revoked. Torrington and MPB assert further that an examination of import volumes is not necessary because dumping continued.

Arguing that the Department's import statistics do not permit a comparison of pre- and post-order import volumes of CRBs, Torrington and MPB suggest that the Department examine data regarding the import value of all roller bearings, the narrowest category of products for which a consistent set of data is available regarding pre- and post-order imports. Torrington and MPB suggest that these data are conservative because declines in import volumes could be obscured by increases in import values and inclusion of non-covered products. They argue that the data will demonstrate that total import value of CRBs dropped dramatically following the order, from more than $6 million in 1988 to less than $1 million in 1993 and import values were below 1988 totals in every year until (and including) 1995.[8] This data, they argue, provides strong additional support for a determination that dumping is likely to continue or recur were the order revoked. In conclusion, Torrington and MPB assert that no ''good cause'' exists to consider other factors, such as sales below the cost of production.

NHBB assert that revocation of the order is not likely to result in continuation or recurrence of dumping. NHBB bases its assertion on the fact that dumping would undercut the U.S. domestic price structure, thus causing injury to the very industry of which foreign owners are a part.

FAG asserts that the dumping margin likely to prevail if the order were to be revoked would be 0.00 percent, the dumping margin it has maintained since the 1993–1994 administrative review. With respect to whether import volumes ceased following the imposition of the order, FAG states that it has not shipped subject merchandise to the United States over the past five years. In addition, FAG indicates that total exports of the subject merchandise from Italy have continued throughout the life of the order (*see* May 3, 1999, substantive response of FAG, Appendix 2).

Torrington and MPB, in their rebuttal comments, state that the cessation of imports from FAG strongly supports an affirmative determination of likelihood of dumping in this case. Further, Torrington and MPB note that the Department's sunset determinations are made on an order-wide basis.

In addition, Torrington and MPB assert that the Department should take into account the submitter's affiliation in its consideration of comments of various parties filing as domestic producers. Further, citing to *Ball Bearings and Parts Thereof From Thailand; Final Results of Changed Circumstances Countervailing Duty Review and Revocation of Countervailing Duty Order,* 61 FR 20799, 20800 (May 8, 1996), they argue that the Department has recognized that domestic producers who are affiliated with subject foreign producers and exporters do not have a common ''stake'' with the petitioner in the maintenance of the order. Additionally, Torrington and MPB argue that other parties' comments addressing issues other than margins and import volumes should not be considered unless such parties establish ''good cause'' to consider such additional factors, which, in these reviews, they have not done.

As discussed in section II.A.3 of the *Sunset Policy Bulletin,* the SAA at 890, and the House Report at 63–64, existence of dumping margins after the order is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline of the order were removed. Further, as noted above, in determining whether revocation of an order is likely to lead to continuation or recurrence of dumping, the Department considers the margins determined in the

[8] Torrington and MPB note that imports of CRBs from Italy increased sharply after 1995, coincident with the revocation of the order on CRBs exported by SKF. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Final Results of Administrative Reviews and Revocation in Part of Antidumping Duty Order,* 60 FR 10959 (February 28, 1995).

investigation and subsequent administrative reviews and the volume of imports. Therefore, the arguments of NHBB with respect to the effect revocation would have on the U.S. market, even if correct, do not rebut the fact that dumping continues and has continued over the life of the order.

In the instant proceeding, dumping margins above *de minimis* continue to exist for at least one known producer and/or exporter. Therefore, given that dumping has continued over the life of the order, the Department determines that dumping is likely to continue if the order were revoked. Because we have based this determination on the fact that dumping continued at levels above *de minimis,* we have not addressed the comments submitted by Torrington and MPB with respect to ''good cause,'' nor have we addressed the arguments of other interested parties regarding the condition of the U.S. market.

Magnitude of the Margin

In the *Sunset Policy Bulletin,* the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department, in its LTFV investigation of CRBs from Italy, published a weighted-average dumping margin of 212.45 percent for SKF. In addition, the Department also published a weighted-average dumping margin of 212.45 percent on all other imports of the subject merchandise from Italy.[9] As noted above, the Department has not issued any duty absorption findings with respect to CRBs from Italy.

In their substantive response, Torrington and MPB argue that the margins likely to prevail are those from the Department's original investigation. Specifically, Torrington and MPB argue that the dumping margins found for each company in the original investigation (as opposed to margins calculated in succeeding annual administrative reviews) are the dumping margins likely to prevail, including margins based on best information available, except where the most current margin, increased by the Department's duty absorption determination, exceeds the original investigation margin. Furthermore, RBC states that the margins from the original investigation are most probative of the rates likely to prevail as they are the only calculated rates that reflect the behavior of exporters without the discipline of the order in place.

NHBB argues that the dumping margins likely to prevail if the order were revoked would be *de minimis.* NHBB goes on to argue that it would be illogical for companies with significant U.S. bearings investments to undercut that investment by dumping. In addition, NHBB argues that the Department should not report margins from the original investigation. In support of this argument, NHBB notes that the SAA provides that, in certain instances, it is more appropriate to rely on a more recently calculated margin. NHBB asserts that one such instance is where, as in the antifriction bearings cases, dumping margins have declined over the life of the order and imports have remained steady or increased. Finally, NHBB argues that, in light of changes in the methodology used to calculated antidumping duty margins introduced by the Uruguay Round, use of margins calculated by the Department prior to the URAA would be unfair and would be contrary to the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

As noted above, FAG argues that the dumping margin likely to prevail if the order were revoked is its current dumping margin of 0.00 percent. FAG states that it has remained at a 0.00 percent dumping level since the 1993–1994 administrative review period. FAG states further that this is due principally to the absence of any imports of Italian CRBs by FAG Bearings Company. Lastly, FAG states that, were the dumping order revoked, there would be no change in FAG's current sourcing and resale patterns of Italian CRBs.

Torrington and MPB, in their rebuttal comments, stated that FAG's reliance on its current rate ignores the fact that current rates do not reflect the behavior of producers and/or exporters without the discipline of the antidumping duty order. As such, they contend, the Department should not rely on this current rate.

Additionally, in their rebuttal comments, Torrington and MPB argue that other parties' comments ignore the Department's stated policies regarding the selection of margins likely to prevail and ignore the Department's duty absorption findings. Citing to the *Sunset Policy Bulletin*, Torrington and MPB argue that the Department's policies are clear—normal reliance on the margins from the investigation as the only margins that reflect the behavior of exporters without the discipline of the order and rejection of margins from administrative reviews in which the Department found duty absorption. Torrington and MPB argue that there is no authority which would authorize or justify the rejection of the investigation rate on the basis of the particular methodology used at the time of the investigation. Additionally, with respect to claims that more recent margins should be used based on declining margins accompanied by steady or increasing imports, Torrington and MPB argue that it is the responsibility of such claimants to provide information regarding companies' relative market share. Since no such information was provided, they contend the Department should not accept these assertions since imports of CRBs from Italy have actually declined since the imposition of the order.

We agree with Torrington, MPB, and RBC that, normally, we will provide a margin from the original investigation because that is the rate that reflects the behavior of exporters absent the discipline of the order. As noted above, exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations.

With respect to NSK's argument concerning the magnitude of the margin likely to prevail, we disagree. As discussed above, we do find that there is a likelihood of continuation or recurrence of dumping. Furthermore, we find the level of dumping likely to prevail is best reflected by the Department's dumping margins we calculated in the original investigation. Specifically, the Department finds that there is no basis to reject margins calculated in an investigation because of subsequent changes in methodology since such changes do not invalidate margins calculated under the prior methodology. Therefore, the dumping margins from the original investigation are the only rates which reflect the behavior of exporters without the

[9] *See Final Determinations of Sales at Less Than Fair Value; Antifriction Bearings (Other Than Spherical Plain and Tapered Roller Bearings) and Parts Thereof From Italy; and Final Determination of Sales at Not Less Than Fair Value; Spherical Plain Bearings and Parts Thereof, From Italy,* 54 FR 19096 (May 3, 1989). This determination was subsequently amended. *See Notice of Redetermination of Final Margin of Sales at Less Than Fair Value, Pursuant to Court Remand: Ball Bearings and Parts Thereof From Italy and Sweden,* 54 FR 20910 (March 8, 1993).

discipline of the order, regardless of the methodology used to calculate that margin or the use of best information available (*see* section 752(c)(3) of the Act).

With respect to NHBB's argument concerning the dumping margin likely to prevail, the Department disagrees. First, NHBB claims that dumping margins have declined over the life of the order and imports have remained steady or increased. However, NHBB provided no evidence to support these claims and nothing submitted in the course of this sunset proceeding indicates that imports have remained steady or increased. In fact, FAG submitted information claiming that it ceased exporting subject merchandise, indicating that import volumes may have decreased. Furthermore, evidence submitted by Torrington and MPB indicate that post-order import volumes (1989–1998) are lower than pre-order volumes (1989) in each year.

In the *Sunset Policy Bulletin* we indicated that, consistent with the SAA at 889–90 and the House Report at 63, we may determine, in cases where declining (or no) dumping margins are accompanied by steady or increasing imports, that a more recently calculated rate reflects that companies do not have to dump to maintain market share in the United States and, therefore, that dumping is less likely to continue or recur if the order were revoked. Alternatively, if a company chooses to increase dumping in order to increase or maintain market share, the Department may provide the Commission with a more recently calculated margin for that company. The *Sunset Policy Bulletin* provides that we will entertain such considerations in response to arguments from an interested party. Further, we noted that, in determining whether a more recently calculated margin is probative of an exporters behavior absent the discipline of an order, we normally will consider the company's relative market share, with such information to be provided by the parties. It is clear, therefore, that in determining whether a more recently calculated margin is probative of the behavior of exporters were the order revoked, the Department considers company-specific exports and company-specific margins. Additionally, although we expressed a clear preference for market share information, in past sunset reviews where market share information was not available, we relied on changes in import volumes between the periods before and after the issuance of the order. (*See, e.g., Final Results of Expedited Sunset Review: Stainless Steel Plate from Sweden,* 63 FR 67658 (December 8, 1998), and *Final Results of Expedited Sunset Reviews: Certain Iron Construction Castings From Brazil, Canada, and the People's Republic of China,* 64 FR 30310 (June 7, 1999).)

In sunset reviews, although we make likelihood determinations on an order-wide basis, we report company-specific margins to the Commission. Therefore, it is appropriate that our determinations regarding the magnitude of the margin likely to prevail be based on company-specific information. Generic arguments that margins decreased over the life of the orders while, at the same time, exporters' share of the U.S. market remained constant do not address the question of whether any particular company decreased its margin of dumping while at the same time maintaining or increasing market share. In fact, such generic argument may disguise company-specific behavior demonstrating increased dumping coupled with increased market share.

With respect to FAG's arguments concerning the dumping margin likely to prevail, the Department disagrees. FAG participated in and had shipments during both the 1991–1992 and 1993–1994 administrative reviews. The SAA at 890 and the House Report at 63–64 state that the cessation of imports after the order is highly probative of the likelihood of continuation or recurrence of dumping. Furthermore, if imports ceased after the order is issued, it is reasonable to assume that exporters could not sell in the United States without dumping and that, to reenter the U.S. market, they would have to resume dumping. As such, we find that the 0.00 percent dumping margin we calculated for FAG for the 1993–1994 administrative review is not probative of the dumping margin likely to prevail if the order were to be revoked. The cessation of imports by FAG following the establishment of this margin strongly suggests to the Department that FAG cannot sell subject merchandise in the United States without dumping. Consequently, we find that the dumping margins calculated in the original investigation are the only calculated rates that reflect the behavior of exporters without the discipline of the order. Consistent with the *Sunset Policy Bulletin,* we determine that the margins we calculated in the Department's original investigation is probative of the behavior of Italian producers and exporters of CRBs if the order were revoked. Therefore, we will report to the Commission the ''all others'' rate from the original investigation contained in the Final Results of Review section of this notice.[10]

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the margin listed below:

Manufacturer/ Exporter	Margin (percent)
SKF	Revoked
All Other Producers/Exporters	212.45

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 28, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28773 Filed 11–3–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–801]

Final Results of Expedited Sunset Review: Ball Bearings From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Notice of final results of expedited sunset review: ball bearings from Italy.

SUMMARY: On April 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty order on ball

[10] The Department calculated only one company-specific rate in the original investigation. The order was subsequently revoked with respect to this one company, SKF (*see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Final Results of Administrative Reviews and Revocation in Part of Antidumping Duty Order,* 60 FR 10959 (February 28, 1995). Because of this, the Department will report to the Commission only the ''all others'' rate from the original investigation.

bearings (''BBs'') from Italy (64 FR 15727) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and adequate substantive comments filed on behalf of domestic interested parties and inadequate response from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 4, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''), and 19 CFR part 351(1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

The products covered by this order are BBs and parts thereof from Italy. For a detailed description of the products covered by this order, including a compilation of all pertinent scope determinations, refer to the notice of final results of expedited sunset reviews on antifriction bearings from Japan (A–588–804), publishing concurrently with this notice.

History of the Order

The Department published its less-than-fair-value (''LTFV'') determination on BBs from Italy on May 3, 1989.[1] In this determination, the Department published weighted-average dumping margins of 68.29 percent for FAG Italia S.p.A. (''FAG'') and 69.99 percent for SKF Industrie S.p.A. (''SKF''). The Department also published an all others rate of 155.57 percent. Since that time, the Department has conducted nine administrative reviews.[2] This sunset review covers imports from all Italian producers and/or exporters of BBs. With respect to duty absorption, the Department issued duty absorption findings for two producers and/or exporters of ball bearings from Italy in the 1995–1996 and 1997–1998 administrative reviews.[3]

Background

On April 1, 1999, the Department initiated a sunset review of the antidumping duty order on BBs from Italy (64 FR 15727), pursuant to section 751(c) of the Act. The Department received Notices of Intent to Participate on behalf of The Torrington Company (''Torrington''), MPB Corp. (''MPB''), the Roller Bearing Company of America (''RBC''), the NSK Corp. (''NSK''), New Hampshire Ball Bearings, Inc. (''NHBB''), and Link-Belt Bearing Division (''Link-Belt'') on April 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. We received a complete substantive response from Torrington, MPB, RBC, and NHBB on May 3, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). The Department received the complete substantive

[1] *See* Final Determinations of Sales at Less Than Fair Value; Antifriction Bearings (Other Than Spherical Plain and Tapered Roller Bearings) and Parts Thereof From Italy; and Final Determination of Sales at Not Less Than Fair Value; Spherical Plain Bearings and Parts Thereof, From Italy, 54 FR 19096 (May 3, 1989). This determination was subsequently amended. *See Notice of Redetermination of Final Margin of Sales at Less Than Fair Value, Pursuant to Court Remand: Ball Bearings and Parts Thereof From Italy and Sweden*, 54 FR 20910 (March 8, 1993).

[2] *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Final Results of Antidumping Duty Administrative Reviews*, 56 FR 31751 (July 11, 1991); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany; et al.; Amended Final Results of Antidumping Duty Administrative Reviews*, 62 FR 32755 (June 17, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France; et al.; Final Results of Antidumping Duty Administrative Reviews*, 57 FR 28360 (June 24, 1992); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom; Amendment to Final Results of Antidumping Duty Administrative Reviews*, 57 FR 32969 (July 24, 1992); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Sweden, and the United Kingdom; Amendment to Final Results of Antidumping Duty Administrative Reviews*, 57 FR 59080 (December 14, 1992); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 8908 (February 23, 1998); *Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order*, 58 FR 39729 (July 26, 1993); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Amendment to Final Results of Antidumping Duty Administrative Review*, 58 FR 53914 (October 19, 1993); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France and Italy; Amendment to Final Results of Antidumping Duty Administrative Reviews*, 58 FR 65576 (December 15, 1993); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 18877 (April 16, 1998); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany, Italy, and Sweden; Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 38369 (July 16, 1998); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 70100 (December 18, 1998); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy; Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order*, 60 FR 10959 (February 28, 1995); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany and Italy; Amended Final Results of Antidumping Duty Administrative Reviews*, 60 FR 31142 (June 13, 1995); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from Italy; Amended Final Results of Antidumping Duty Administrative Review*, 60 FR 33791 (June 29, 1995); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 66472 (December 17, 1996); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany, Italy, Japan, and the United Kingdom: Amended Final Results of Antidumping Duty Administrative Reviews*, 62 FR 3003 (January 21, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 2081(January 15, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, and Singapore; Amended Final Results of Antidumping Duty Administrative Reviews*, (March 26, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 54043 (October 17, 1997); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 33320 (June 18, 1998); *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy, Romania, and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 40878 (July 31, 1998); *Final Results of Antidumping Duty Administrative Reviews*, 64 FR 35590 (July 1, 1999).

[3] The two companies were SKF and FAG. *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews*, 62 FR 54043 (October 17, 1997); *Final Results of Antidumping Duty Administrative Reviews*, 64 FR 35590 (July 1, 1999).

response from NSK on April 30, 1999. The Department did not receive a complete substantive response from Link-Belt. In addition, the Department received a complete substantive response from a respondent interested party, FAG, on May 3, 1999.

Torrington, MPB, RBC, and NHBB claimed interested party status under 19 U.S.C. 1677(9)(C) as U.S. manufacturers of BBs. NSK claimed interested party status under 19 U.S.C. 1677(9). In addition, Torrington stated that it was the petitioner in the original investigation and has actively participated in all administrative reviews of this order. MPB stated that it had participated in the International Trade Commission's (''the Commission'') injury investigation. RBC and NHBB stated that they have not participated in any segment of this proceeding before the Department.

The foreign interested party, FAG, claimed interested party status under 19 U.S.C. 1677(9). FAG stated that it participated in the original investigation and each subsequent administrative review of this proceeding. In addition, the Department received a waiver of participation from another respondent interested party, SKF, on May 3, 1999.

Based on the information submitted by FAG concerning the volume and value of its exports and volume of imports as reported in U.S. Census Bureau IM146 Reports, FAG's exports of subject merchandise to the United States accounted for less than 50 percent of the total volume of subject merchandise to the United States over the five calendar years preceding the initiation of this sunset review. Therefore, based on the information submitted by FAG and the waiver of participation submitted on behalf of SKF, respondent interested parties have provided an inadequate response to the notice of initiation and, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department has determined to conduct an expedited, 120-day, review of this order.[4]

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). Therefore, on August 5, 1999, the Department determined that the sunset review of the antidumping duty order on BBs from Italy is extraordinarily complicated and extended the time limit for completion of the final results of this review until not later than October 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[5]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order, and it shall provide to the Commission the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, interested parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Adequacy

As noted above, we notified the Commission that we intended to conduct an expedited review of this order. On June 10, 1999, we received comments on behalf of MPB and Torrington supporting our determination to conduct an expedited review. NHBB and NSK also submitted comments on whether an expedited sunset review was warranted. In their submissions, both parties assert that most of the domestic interested parties that submitted substantive responses are in favor of revocation of the Department's various antidumping duty orders on antifriction bearings. These parties also offered new argument regarding the likely effect of revocation of these orders.

The magnitude of domestic support for continuation or revocation of an order, however, does not enter into the Department's determination of adequacy of participation nor, for that matter, the Department's determination of likelihood. The Department made clear in its regulations that a complete substantive response from one domestic interested party would be considered adequate for purpose of continuing a sunset review (see section 351.218(e)(1)). Nowhere in the statute or legislative history is there reference to consideration of domestic industry support during the course of a sunset review (other than the statutory provision that, if there is *no* domestic industry interest in continuation of the order, the Department will revoke the order automatically). In fact, the Senate Report (at Rep. No. 103–412 at 46 (2nd Session 1994)) makes clear that the purpose of adequacy determinations in sunset reviews is for the Department to determine whether to issue a determination based on the facts available without further fact-gathering. Further, the statute, at section 751(c)(1), specifies that the Department is to determine whether revocation of an order would be likely to lead to continuation or recurrence of dumping. Section 752(c) specifies that the Department is to consider the weighted-average dumping margins determined in the investigation and subsequent reviews, as well as the volume of imports of the subject merchandise for the period before and the period after the issuance of the order.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin,* the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.3). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

In their substantive response, Torrington and MPB argue that revocation of the antidumping duty

[4] On May 24, 1999, we informed the Commission that, on the basis of inadequate response from respondent interested parties, we were conducting an expedited sunset review of this order consistent with 19 CFR 351.218(e)(1)(ii)(C)(*2*). (*See* Letter to Lynn Featherstone, Director, Office of Investigations from Jeffrey A. May, Director, Office of Policy.)

[5] *See Tapered Roller Bearings, 4 Inches and Under From Japan, et al.; Extension of Time Limit for Final Results of Five-Year Reviews,* 64 FR 42672 (August 5, 1999).

order on the subject merchandise would be likely to lead to continuation of dumping. They base this conclusion on the fact that dumping continued at levels above *de minimis* after the issuance of the order. RBC also argues that given that, dumping margins continue to exist after the issuance of the order, the Department must conclude that dumping would be likely to continue or recur if the order were revoked. Torrington and MPB assert further that an examination of import volumes is not necessary because dumping continued.

Should the Department decide to consider import volumes, Torrington and MPB assert that the data will demonstrate that 1998 import volumes of the subject merchandise are significantly below the 1988 pre-order volumes. Using pre-and post-order statistics for complete unmounted BBs, which Torrington and MPB assert is the only category for which statistics are available on a consistent basis, they argue that post-order declines in import volumes provide strong additional support for a determination that dumping is likely to continue or recur were the order revoked. In conclusion, Torrington and MPB assert that no ''good cause'' exists to consider other factors, such as sales below the cost of production.

NHBB and NSK assert that revocation of the order is not likely to result in continuation or recurrence of dumping. NHBB bases its assertion on the fact that dumping would undercut the U.S. domestic price structure, thus causing injury to the very industry of which foreign owners are a part. NSK appears to support its assertion on the basis that the margin of dumping has fallen during the life of the order.

FAG indicates that revocation of the antidumping duty order on BBs from Italy will likely result in a statistically insignificant dumping margin for itself or a reduction in its dumping margin to a *de minimis* level. With respect to whether dumping continued at any level above *de minimis* after the issuance of the order, FAG indicates, in its Summary of Case History, that it has continued to dump subject merchandise at a level above *de minimis* throughout the life of the order (*see* May 3, 1999, substantive response of FAG, Appendix 2). With respect to whether imports of the subject merchandise ceased after the issuance of the order, FAG indicates that imports of the subject merchandise have continued throughout the life of the order. FAG argues that value and volume of subject merchandise has generally decreased since the inception of this case in 1987. Further, it contends this trend has continued into the current review period with a further reduction in FAG's exports of the subject merchandise over the last two quarters.

In its rebuttal comments, FAG states that the dumping margins for producers and/or exporters of the subject merchandise have not only steadily declined in recent review periods but the levels of imports have remained steady. Specifically, FAG states that import levels of the subject merchandise remained relatively stable, decreasing by 25 percent between fiscal year 1993 and fiscal year 1997.

In their rebuttal comments, Torrington and MPB disagree with FAG. They state that FAG's admission that its imports and sales decreased strongly supports a determination that FAG cannot resume selling at pre-order volumes without resorting to dumping. Furthermore, according to Torrington and MPB, FAG disregards the Department's duty absorption findings when it suggests that the Department rely upon FAG's 0.95 percent dumping margin found in the most recent administrative review.

In addition, Torrington and MPB assert that the Department should take into account the submitter's affiliation in its consideration of comments of various parties filing as domestic producers. Citing to *Ball Bearings and Parts Thereof From Thailand; Final Results of Changed Circumstances Countervailing Duty Review and Revocation of Countervailing Duty Order,* 61 FR 20799, 20800 (May 8, 1996), they argue that the Department has recognized that domestic producers who are affiliated with subject foreign producers and exporters do not have a common ''stake'' with the petitioner in the maintenance of the order. Additionally, Torrington and MPB argue that other parties' comments addressing issues other than margins and import volumes should not be considered unless such parties establish ''good cause'' to consider such additional factors, which, in these reviews, they have not done.

As discussed in section II.A.3 of the *Sunset Policy Bulletin,* the SAA at 890, and the House Report at 63–64, existence of dumping margins after the order is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline of the order were removed. Thus, as noted above, in determining whether revocation of an order is likely to lead to continuation or recurrence of dumping, the Department considers the margins determined in the investigation and subsequent administrative reviews and the volume of imports. Whatever relevance the arguments of NHBB and NSK concerning possible disincentives for producers and/or exporters to dump in the U.S. market might have had is mooted by the evidence that dumping continues and has continued over the life of the order.

In the instant proceeding, dumping margins above *de minimis* continue to exist. Therefore, given that dumping has continued over the life of the order, the Department determines that dumping is likely to continue if the order were revoked. Because we have based this determination on the fact that dumping continued at levels above *de minimis,* we have not addressed the comments submitted by Torrington and MPB with respect to ''good cause,'' nor have we addressed the arguments of other interested parties regarding the condition of the U.S. market.

Magnitude of the Margin

In the *Sunset Policy Bulletin,* the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Department, in the LTFV determination of BBs from Italy, published a weighted-average dumping margin of 69.99 percent for SKF and a weighted-average dumping margin of 68.29 for FAG. In addition, the Department published a weighted-average dumping margin of 155.57 percent on all other imports of the subject merchandise from Italy.[6] As noted above, the Department issued

[6] *See Final Determinations of Sales at Less Than Fair Value; Antifriction Bearings (Other Than Spherical Plain and Tapered Roller Bearings) and Parts Thereof From Italy; and Final Determination of Sales at Not Less Than Fair Value; Spherical Plain Bearings and Parts Thereof, From Italy,* 54 FR 19096 (May 3, 1989). This determination was subsequently amended. *See Notice of Redetermination of Final Margin of Sales at Less Than Fair Value, Pursuant to Court Remand: Ball Bearings and Parts Thereof From Italy and Sweden,* 54 FR 20910 (March 8, 1993).

duty absorption findings in the 1995–1996 administrative review for SKF and FAG with respect to BBs from Italy.

In their substantive response, Torrington and MPB argue that the margins likely to prevail are those from the Department's original investigation. They also note that the Department issued a duty absorption finding with respect to BBs from Italy in the 1995–1996 administrative review and should consider this in determining the margin likely to prevail. Specifically, Torrington and MPB argue that the dumping margins found for each company in the original investigation (as opposed to margins calculated in succeeding annual administrative reviews) are the dumping margins likely to prevail, including margins based on best information available, except where the most current margin, increased by the Department's duty absorption determination, exceeds the original investigation margin. Furthermore, RBC states that the margins from the original investigation are most probative of the rates likely to prevail as they are the only calculated rates that reflect the behavior of exporters without the discipline of the order in place.

NHBB argues that the dumping margins likely to prevail if the order were revoked would be *de minimis.* NHBB goes on to argue that it would be illogical for companies with significant U.S. bearings investments to undercut that investment by dumping. In addition, NHBB argues that the Department should not report margins from the original investigation. In support of this argument, NHBB notes that the SAA provides that, in certain instances, it is more appropriate to rely on a more recently calculated margin. NHBB asserts that one such instance is where, as in the antifriction bearings cases, dumping margins have declined over the life of the order and imports have remained steady or increased. Finally, NHBB argues that, in light of changes in the methodology used to calculated antidumping duty margins introduced by the Uruguay Round, use of margins calculated by the Department prior to the URAA would be unfair and would be contrary to the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

Similarly, NSK argues that the margins likely to prevail would be *de minimis.* As support, NSK argues that, were the order not in existence, the Department would apply the average-to-average methodology used in an investigation, as opposed to the transaction-to-average methodology common to administrative reviews, to measure the extent of any dumping. In such a case, NSK states that it believes any margin found would be below the two percent *de minimis* level applicable in investigations. NSK further argues that the Department's unorthodox approach during the original investigation, plus the liberal use of best information available, skewed the results of the original investigation seriously, rendering those results inappropriate indicators of the magnitude of the margin likely to prevail were the orders revoked. Finally, NSK also argues that dumping margins have declined over time with respect to BBs while at the same time, imports have remained at or around 20 percent of the U.S. market. As support, it cites to *The Economic Effects of Antidumping and Countervailing Duty Orders and Suspension Agreements,* USITC Pub. 2900, Inv. No. 332–334, at 14–26—14–31 (June 1995).

FAG states the dumping margin likely to prevail for itself is its current dumping margin of 0.95 percent or even a lower dumping margin, given its current importing and pricing trends. FAG claims that its dumping margin may actually be lowered in the future because it has fundamentally changed its sourcing patterns to rely more heavily on domestic (*i.e.,* U.S.) or third country purchase of certain ranges of BBs. Furthermore, FAG claims that it has implemented price monitoring programs with respect to its sales of subject merchandise. FAG also argues that it has attained a 0.95 percent dumping margin in the face of what it considers the ''arbitrary, capricious and commercially absurd'' methodology used by the Department in the calculation of constructed value. Finally, FAG states it is a large producer of a highly differentiated, mature industrial product and that because of this, and the Department's sampling methodology, a certain inevitable percentage of dumping does recur from year to year.

In their rebuttal comments, Torrington and MPB argue that other parties' comments ignore the Department's stated policies regarding the selection of margins likely to prevail and ignore the Department's duty absorption findings. Citing to the *Sunset Policy Bulletin*, Torrington and MPB argue that the Department's policies are clear—normal reliance on the margins from the investigation as the only margins that reflect the behavior of exporters without the discipline of the order and rejection of margins from administrative reviews in which the Department found duty absorption. Torrington and MPB argue that the two percent *de minimis* standard is not applicable to sunset reviews. Further, they contend there is no authority which would authorize or justify the rejection of the investigation rate on the basis of the particular methodology used at the time of the investigation. Additionally, they assert that, with respect to claims that more recent margins should be used based on declining margins accompanied by steady or increasing imports, it is the responsibility of such claimants to provide information regarding companies' relative market share. Since no such information was provided, Torrington and MPB argue, the Department should not accept these assertions since imports BBs from Italy have actually declined since the imposition of the order.

We agree with Torrington, MPB, and RBC that, normally, we will provide a margin from the original investigation because that is the rate that reflects the behavior of exporters absent the discipline of the order. As noted above, exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations.

With respect to NSK's argument concerning the magnitude of the margin likely to prevail, we disagree. As discussed above, we do find that there is a likelihood of continuation or recurrence of dumping. Furthermore, we find the level of dumping likely to prevail is best reflected by the Department's dumping margins we calculated in the original investigation. Specifically, the Department finds that there is no basis to reject margins calculated in an investigation because of subsequent changes in methodology since such changes do not invalidate margins calculated under the prior methodology. Therefore, the dumping margins from the original investigation are the only rates which reflect the behavior of exporters without the discipline of the order, regardless of the methodology used to calculate that margin or the use of best information available (*see* section 752(c)(3) of the Act).

With respect to NHBB's argument concerning the dumping margin likely to prevail, the Department disagrees. First, NHBB claims that dumping margins have declined over the life of the order and imports have remained steady or increased. However, NHBB provided no evidence to support these claims and nothing submitted in the course of this sunset proceeding indicates that imports have remained steady or increased. In fact, evidence submitted by Torrington and MPB

indicate that post-order import volumes (1989–1998) are lower than pre-order volumes (1989) in each year. Regardless of the level of imports, dumping margins above *de minimis* levels continue as do imports of the subject merchandise; dumping continues to exist.

In the *Sunset Policy Bulletin* we indicated that, consistent with the SAA at 889–90 and the House Report at 63, we may determine, in cases where declining (or no) dumping margins are accompanied by steady or increasing imports, that a more recently calculated rate reflects that companies do not have to dump to maintain market share in the United States and, therefore, that dumping is less likely to continue or recur if the order were revoked. Alternatively, if a company chooses to increase dumping in order to increase or maintain market share, the Department may provide the Commission with a more recently calculated margin for that company. The *Sunset Policy Bulletin* provides that we will entertain such considerations in response to arguments from an interested party. Further, we noted that, in determining whether a more recently calculated margin is probative of an exporters behavior absent the discipline of an order, we will normally consider the company's relative market share, with such information to be provided by the parties. It is clear, therefore, that in determining whether a more recently calculated margin is probative of the behavior of exporters were the order revoked, the Department considers company-specific exports and company-specific margins. Additionally, although we expressed a clear preference for market share information, in past sunset reviews where market share information was not available, we relied on changes in import volumes between the periods before and after the issuance of the order. (*See, e.g., Final Results of Expedited Sunset Review: Stainless Steel Plate from Sweden,* 63 FR 67658 (December 8, 1998), and *Final Results of Expedited Sunset Reviews: Certain Iron Construction Castings From Brazil, Canada, and the People's Republic of China,* 64 FR 30310 (June 7, 1999).)

In sunset reviews, although we make likelihood determinations on an order-wide basis, we report company-specific margins to the Commission. Therefore, it is appropriate that our determinations regarding the magnitude of the margin likely to prevail be based on company-specific information. Generic arguments that margins decreased over the life of the orders while at the same time, exporters' share of the U.S. market remained constant do not address the question of whether any particular company decreased its margin of dumping while, at the same time maintaining or increasing market share. In fact, such generic argument may disguise company-specific behavior demonstrating increased dumping coupled with increased market share.

With respect to FAG's argument concerning the margin likely to prevail, the Department disagrees. FAG argues that the margin likely to prevail is its current margin of 0.95 percent (or a lower margin). The Department finds this current margin is not reflective of the margin likely to prevail if the order were to be revoked. On the issue of import volumes, the SAA at 889, the House Report at 63, and the Senate Report at 52 state that declining import volumes accompanied by the continued existence of dumping margins after the issuance of the order may provide a strong indication that, absent an order, dumping would be likely to continue because the evidence would indicate that the exporter needs to dump to sell at pre-order volumes.

FAG states that exports of the subject merchandise have generally decreased since the inception of this case in 1987. The Department can confirm that current exports of the subject merchandise are indeed lower than pre-order exports. FAG also claims that it has shifted production to its U.S. facilities and has changed its sourcing patterns to rely more heavily on domestic (*i.e.*, U.S.) or third-country purchases of certain ranges of BBs. FAG also states that it has sourced product from third countries that are not covered by antidumping duty orders. In addition, it states that it has shifted production to its U.S. facilities for certain product ranges and sizes. These moves, coupled with FAG's decrease in exports of the subject merchandise to the United States over the life of the order, indicate to the Department that such action was necessary because FAG was, and is, unable to sell subject merchandise in the United States without dumping. Therefore, absent such evidence, the Department finds no reason to deviate from its standard practice in this matter.

As noted above, the Department determined in the final results of the 1995–1996 and 1997–1998 administrative reviews that two Italian producers/exporters, FAG and SKF, were absorbing duties.[7] Consistent with the statute and the *Sunset Policy Bulletin,* the Department will notify the Commission of its findings regarding duty absorption when conducting a sunset review.

Additionally, the *Sunset Policy Bulletin* refers to the SAA at 885 and the House Report at 60, and provides that where the Department has found duty absorption, the Department normally will provide to the Commission the higher of the margin that the Department otherwise would have reported or the most recent margin for that company, adjusted to account for the Department's findings on duty absorption. In this case, the margins adjusted to account for the Department's duty absorption findings are less than the margins we would otherwise report to the Commission.

Therefore, the Department agrees with the domestic interested parties concerning the margin likely to prevail if the order were to be revoked. We find that the dumping margins calculated in the original investigation are the only calculated rates that reflect the behavior of exporters without the discipline of the order. Consistent with the *Sunset Policy Bulletin,* we determine that the margins calculated in the Department's original investigation is probative of the behavior of Italian producers and exporters of BBs if the order were revoked. Therefore, we will report to the Commission the company-specific and ''all others'' rates from the original investigation contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the margin listed below:

Manufacturer/ Exporter	Margin (percent)
SKF	69.99
FAG	68.29
All Other Producers/Exporters	155.57

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations

[7] *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 62 FR 54043 (October 17, 1997); *Final Results of Antidumping Duty Administrative Reviews,* 64 FR 35590 (July 1, 1999).

and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 28, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28774 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–122–404]

Final Results of Full Sunset Review: Live Swine From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of full sunset review: live swine from Canada.

SUMMARY: On June 25, 1999, the Department of Commerce (''the Department'') published a notice of preliminary results of the full sunset review of the countervailing duty order on live swine from Canada (64 FR 34209) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). We provided interested parties an opportunity to comment on our preliminary results. We received comments from both domestic and respondent interested parties and held a public hearing. As a result of this review, the Department finds that revocation of this order would not be likely to lead to continuation or recurrence of a countervailable subsidy.

FOR FURTHER INFORMATION CONTACT: Scott E. Smith or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6397 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 4, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations*'') and in 19 CFR part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year* (''Sunset'') *Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

The merchandise subject to this countervailing duty order is shipments of live swine, except U.S. Department of Agriculture (''USDA'') certified purebred breeding swine, slaughter sows and boars, and weanlings from Canada.[1] Weanlings are swine weighing up to 27 kilograms or 59.5 pounds.[2] This merchandise is currently classifiable under the Harmonized Tariff Schedule (''HTS'') item numbers 0103.91.00 and 0103.92.00. The HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

Background

On June 25, 1999, the Department issued the *Preliminary Results of Full Sunset Review: Live Swine from Canada* (64 FR 34209) (''*Preliminary Results*''). In our preliminary results, we found that revocation of the order would likely result in the continuation or recurrence of a countervailable subsidy. In addition, we preliminarily determined that the net countervailable subsidy likely to prevail if the order were revoked would be Can$0.01802234/lb.

On August 9, 1999, within the deadline specified in 19 CFR 351.209(c)(1)(i), we received comments on behalf of National Pork Producers Council (''NPPC'').[3] We also received comments from the Gouvernement du Quebec (''GOQ''), the Government of Canada (''GOC'') and the Canadian Pork Council and its Members (''CPC''), the Canadian respondents in this proceeding (collectively, ''the Canadian respondents''). On August 16, 1999, within the deadline specified in 19 CFR 351.309(d), the Department received rebuttal comments from the NPPC and each of the Canadian respondents. On August 18, 1999, the Department held a public hearing. We have addressed the comments received below.

As a result of our reconsideration, we find that the net subsidy rate likely to prevail were the order revoked is *de minimis.* Because any subsidy rate would be *de minimis,* we find that it is not likely that revocation would result in the continuation or recurrence of a countervailable subsidy.

Comments

Comment 1: The NPPC states that it agrees with the Department's preliminary finding that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The NPPC argues that given the extensive federal and provincial programs available, there can be little question that the Department properly found that subsidization would be likely to continue if the order were revoked.

The Canadian respondents argue that, when corrected for errors in the *Preliminary Results,* any net countervailable subsidy likely to prevail is zero or *de minimis.* As such, the Department should find that subsidization would not be likely to continue or recur if the order were revoked.

Department Response: Based on comments received, we have recalculated the net countervailable subsidy likely to prevail were the order revoked. Because, as discussed below, we find that the subsidy likely to prevail is *de minimis,* for our final results of full sunset review we determine that revocation of this countervailing duty order would not be likely to result in the continuation or recurrence of a countervailable subsidy.

Comment 2: The NPPC argues that although, in the *Preliminary Results,* the Department identified the Newfoundland Hog Price Stabilization Program as a program that was created after the imposition of the order which still exists, the Department failed to include this program in its net subsidy calculation. The NPPC requests the Department correct this error for its final determination.

As discussed in more detail below, the CPC argues that the Newfoundland Hog Price Stabilization Program was terminated on March 31, 1994.

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[1] On August 29, 1996, the Department issued the final results of a changed circumstances review revoking the order, in part, with respect to slaughter sows and boars. The revocation became effective on April 1, 1991 (*see Live Swine from Canada; Final Results of Changed Circumstances Countervailing Duty Administrative Review, and Partial Revocation In Part of Countervailing Duty Order,* 61 FR 45402 (August 29, 1996).

[2] In the *Final Affirmative Countervailing Duty Determination; Live Swine and Fresh, Chilled and Frozen Pork Products from Canada,* 50 FR 25097 (June 17, 1985), the Department also calculated a net subsidy for dressed-weight swine. However, the Department terminated its investigation with respect to fresh, chilled, and frozen pork products from Canada based on a finding by the Commission that no material injury, threat of material injury, or retardation of an infant industry existed.

[3] The NPPC is a trade organization representing U.S. hog and pork producers through a federation of 44 affiliated state pork producer associations with a total membership of 85,000. NPPC's membership consists of small family farms and large hog operations.

Department Response: We disagree that we incorrectly failed to include a subsidy rate from the Newfoundland Hog Price Stabilization Program in our preliminary calculation of the net subsidy likely to prevail if the order were revoked. Leaving aside the question of termination, we note that the Department never calculated a subsidy rate for this program because it had not been used. Therefore, we do not believe it appropriate to include a rate from this program in the calculation of the net countervailable subsidy likely to prevail were the order revoked.

Comment 3: The NPPC notes that, in addition to the ten programs used in the net subsidy calculation in the *Preliminary Results*,[4] the Department identified six programs for which no subsidy rate has ever been calculated—the Newfoundland Farm Products Corporation Hog Price Support Program, Western Diversification Program, Agricultural Products Board Program, Newfoundland Weanling Bonus Incentive Policy, Federal Atlantic Livestock Initiative, and Ontario Swine Sales Assistance Program. Further, the NPPC argues that the Department acknowledged that none of these six programs has been found to be terminated or modified in such a way that they would not confer any countervailable benefit in the future. Therefore, to ensure the most accurate net countervailable subsidy rate is reported to the Commission, the NPPC requests that the Department include in its final calculation of the net countervailable subsidy likely to prevail a rate for each of these programs. The NPPC recommends the use of neutral ''facts available'' in order to identify a subsidy rate for each of the six programs.

As discussed in more detail below, the Canadian respondents assert that the Western Diversification Program, Agricultural Products Board Program, and Federal Atlantic Livestock Initiative were never found to provide a countervailable subsidy on the subject merchandise and, therefore, cannot be included in any rate likely to prevail. Further, they argue that there has been a long track record on non-use of the Ontario Swine Sales Assistance Program. Therefore, this program should not be included in the calculation. Finally, with respect to the Newfoundland Farm Products Corporation Hog Price Support Program and the Newfoundland Weanling Bonus Incentive Policy, the Canadian respondents argue that these programs have been terminated and should thus be excluded from any calculation. We note that the CPC alleges that the Newfoundland Farm Products Corporation Hog Price Support Program is the same as the Newfoundland Hog Price Support Program.

Department Response: The Department disagrees with the NPPC that we should include a neutral facts available rate for these programs in calculating the net subsidy likely to prevail were the order revoked. In the *Preliminary Results* the Department did not include these six programs in the calculation of the net subsidy rate on the basis that, despite no finding that any of these programs had been terminated, the Department had never calculated a subsidy rate for any of these programs because the Department has never been presented with evidence establishing the countervailability of these programs and/or these programs have not been used.

As discussed below, over the life of this order the Department has never been presented with sufficient evidence that the Western Diversification Program, Agricultural Products Board Program, or Federal Atlantic Livestock Initiative provide a countervailable subsidy with respect to subject merchandise. In addition, with respect to the Newfoundland Weanling Bonus Incentive Policy, and the Ontario Swine Sales Assistance Program, although found countervailable, the Department has never calculated a subsidy rate during the POI or any administrative review because the Department had determined the programs had not been used. Additionally, as discussed below, we agree with the CPC that the Newfoundland Farm Products Corporation Hog Price Support Program is the same as the Newfoundland Hog Price Support Program.

Over the fourteen year life of the order, neither of these programs has been found to provide a measurable countervailable subsidy. The NPPC has provided no convincing argument or evidence that, were the order revoked, these programs would be used and found to provide a measurable countervailable subsidy. Therefore, the Department does not agree that it is appropriate to calculate a facts available subsidy rate likely to prevail for these programs were the order revoked.

Comment 4: The NPPC argues that the Department prematurely decided that British Columbia Feed Grain Market Development Program (''Program 1''); (2) Canada/Alberta Swine Improvement Programs Study (''Program 2''); (3) Prince Edward Island Interest Payments on Assembly Yard Loan Program (''Program 3''); and (4) British Columbia Special Hog Payment Program (''Program 4'') were terminated. The NPPC argues that the Department should utilize different criteria in the course of sunset reviews with respect to determinations regarding program termination. Specifically, the NPPC asserts that the sunset criteria for program termination should be more rigorous than for administrative reviews because sunset determinations may have the effect of terminating the order. Termination through administrative action, rather than through legislative means, the NPPC argues, is insufficient for the Department, in the course of a sunset review, to determine that the program has indeed been terminated.

The GOQ argues that the Department applied the appropriate standard to programs determined terminated in administrative reviews. The GOQ asserts that neither the statute nor its legislative history supports the argument that the Department may apply a more stringent standard to programs that the Department previously determined to be terminated before they may be considered terminated for sunset review purposes. Further, the GOQ argues that, in the context of a sunset review, the Department's prior determination that a program is terminated is sufficient to support revocation of an order unless contrary evidence has been shown that the program is likely to be reinstated.

Department Response: The Department agrees with the NPPC, in part. The Department agrees that the elimination of a program administratively is not as strong a basis for a finding of termination as elimination through legislative action (see *Sunset Policy Bulletin*). However, where a program was put in place administratively, it is reasonable to expect that the government would terminate the program in the same manner (*see Final Results of Expedited Sunset Review: Heavy Iron Construction Castings from Brazil*, 64 FR 30313 (June 7, 1999)). In these circumstances, unless there is a basis for concluding that the government is likely to reinstate the program, we continue to believe it is appropriate to treat a program previously found to be terminated in an

[4] The ten programs used in the net subsidy calculation in the *Preliminary Results* were: Technology Innovation Program under the Agri-Food Agreement, Ontario Livestock and Poultry and Honeybee Compensation Program, Ontario Bear Damage to Livestock Compensation Program, Ontario Rabies Indemnification Program, New Brunswick Swine Industry Financial Restructuring Program, Newfoundland Hog Price Support Program, Quebec Farm Income Stabilization Insurance Program, New Brunswick Livestock Incentives Program, Support for Strategic Alliances Program under the Agri-Food Agreement, and Nova Scotia Improved Sire Program.

administrative review as terminated for the purpose of sunset reviews.

With respect to Program 1, the Department determined that the program was terminated with no residual benefits in the 1990–1991 administrative review. The Department has information on the record of this proceeding which indicates that this program was terminated at the end of the 1988 crop year and that final payments were made in February, 1990. Since the Department's determination in the 1990–1991 administrative review regarding this program's termination, the Department has not found any grounds for reconsideration of this program or its termination. Based on these facts, the Department continues to find this program terminated.

With respect to Program 2 and Program 3, the Department determined that these programs were terminated with no residual benefits in the 1991–1992 administrative review. Specifically, the Department found that these programs were terminated prior to April 1, 1991, with no residual benefits after this date. Since the Department's determination in the 1991–1992 administrative review regarding the termination of these programs, the Department has not found any grounds for a reconsideration of these programs or their termination. Based on these facts, the Department continues to find these programs terminated.

With respect to the Program 4, the Department determined that the program was terminated with no residual benefits in the 1994–1995 administrative review. Specifically, the Department found that this program was terminated prior to April 1, 1994, with no residual benefits after this date. Further, information on the record indicates that this program was only in existence during fiscal year 1988–1989 and that all benefits were countervailed during the 1988–1989 administrative review. Since the Department's determination in the 1994–1995 administrative review regarding this program's termination, the Department has not found any grounds for a reconsideration of this program or its termination. Based on these facts, the Department continues to find this program terminated.

Comment 5: The NPPC argues that the Department should take into consideration new programs that have not been investigated and include such programs in its analysis. The NPPC argues that the Department should consider new programs proposed by both federal and provincial governments and should consider programs determined to provide subsidies in other proceedings.

Specifically, the NPPC alleges that the Farm Improvement and Marketing Cooperative Loans Act (''FIMCLA''), identified in the Department's *Preliminary Negative Countervailing Duty Determination; Live Cattle from Canada* (64 FR 25279, May 11, 1999) (''*Cattle Prelim*''), provides countervailable benefits to Canadian hog producers. In addition, the NPPC alleges that the Manitoba Pork Council will impose a twenty cent levy on each iso-wean and weanling pig exported out of the province. This export tax is apparently being used to fund Manitoba manure disposal. Therefore, the NPPC requests that the Department include these programs in its final sunset determination as programs likely to provide a countervailable subsidy were the order revoked.

The CPC asserts that the news release, relied upon by the NPPC in its request that the Department identify subsidy rates from levies being imposed by the Manitoba Pork Council, does not discuss a new government program, but rather, on-going producer-funded activities. The CPC argues that the NPPC has not identified a new program, nor has it even attempted to explain how producer-collected and producer-funded promotion, education and research activities could ever provide a countervailable benefit. On this basis, the CPC argues that the statutory likelihood the Department must have in making its calculations is not present.

With respect to the program currently under investigation in the live cattle investigation, the CPC argues that the Department need not consider such programs and, in the *Preliminary Results,* correctly rejected the NPPC's suggestion to do so.

Department Response: The Department disagrees with the NPPC. With respect to new programs proposed by the federal and provincial governments of Canada, the NPPC merely claims that these governments are discussing the possibility of establishing new subsidies for Canada's hog farmers. Furthermore, the NPPC argues that the Canadian federal government is contemplating a recovery plan that would include a comprehensive financial aid package that could potentially provide subsidies. The Department finds that reports of mere ''contemplation'' or ''possibility'' of new programs do not provide sufficient justification for the Department to determine that new programs will provide a countervailable subsidy were the order revoked.

With respect to FIMCLA, the Department disagrees with the NPPC. First, the FIMCLA program was enacted in 1987 with the purpose of increasing the availability of loans for the improvement and development of farms and the processing, distribution or marketing of farm products by cooperative associations. The SAA at 889 states that ''subsidy allegations normally should be made in the context of [administrative] reviews . . . however, where there have been no recent [administrative] reviews or where the alleged countervailable subsidy program came into existence after the most recently completed [administrative] review, [the Department] may consider new subsidy allegations in the context of a . . . [sunset] review.'' However, the FIMCLA program has been in existence for over a decade, providing ample opportunity for domestic interested parties to allege countervailable benefits to swine producers during the course of administrative reviews.

In addition, the information included in the verification report of our investigation of live cattle from Canada relates only to benefits received by cattle producers, not cattle and swine producers (*see* Verification Report: Live Cattle from Canada, dated August 27, 1999). Thus, the Department has no information regarding the extent of usage of the FIMCLA program, if any, by swine producers and, therefore, whether there is any benefit provided to swine producers. Because the Department has no information with which to make a determination regarding any countervailable benefits of this program with respect to live swine because NPPC provided no evidence that this program was used by swine producers, and because domestic interested parties had ample opportunity but failed during the administrative review process to allege the countervailability of this program, the Department finds that an analysis of this program, in the context of this sunset review, is not warranted.

Comment 6: The CPC and GOC claim that four programs identified in the Department's *Preliminary Results* as providing countervailable subsidies have been terminated.[5] The CPC argues that it has repeatedly provided documentation demonstrating that these programs have been terminated (with no residual benefits) over the past three successive administrative reviews, although the Department did not make

[5] The four programs are: Nova Scotia Improved Sire Policy, Newfoundland Hog Price Support Program, Newfoundland Weanling Bonus Incentive Policy, and Newfoundland Hog Price Stabilization Program.

a determination regarding termination in any of the administrative reviews. The CPC re-submitted the documentation concerning the termination of these programs for this sunset review and requests that the Department make a determination concerning their termination in the course of this sunset review.

The NPPC argues that the Department, even applying the less rigorous standards of administrative reviews, has never made a formal finding that these programs were officially terminated. Further, the NPPC argues that the documentation provided by the CPC to support a finding of termination is insufficient to demonstrate that these programs have been terminated in such a way that they would not be reinstituted, as the SAA and the Department's policy bulletin anticipate.

Department Response: The Department agrees with the CPC that it is appropriate to consider possible termination of these programs during the course of this sunset review. Because there were no exports of the subject merchandise from the provinces in question during administrative reviews in which the CPC raised the issue of program termination, the fact that the Department did not consider possible termination during the reviews could not have had an effect on the outcome of those administrative reviews. Thus, the Department has not had a real opportunity to address respondents' evidence of termination. However, because the existence or termination of these programs may have an effect on the outcome of this sunset review, the Department will consider such information during the course of this review.

According to documentation presented by the Government of the Province of Newfoundland, the Newfoundland Hog Price Support Program was terminated on March 18, 1993, the Newfoundland Weanling Bonus Incentive Policy was terminated on March 31, 1993, and the Newfoundland Hog Price Stabilization Program was terminated on March 31, 1994.[6] According to documentation presented by the Government of the Province of Nova Scotia, the Nova Scotia Improved Sire Policy was terminated on May 15, 1996.[7]

With respect to the Newfoundland programs, the Government of the Province of Newfoundland submitted, in support of its argument for termination, a provincial budget report from 1993 indicating that production subsidies to hog producers were eliminated in 1993. Given this documentation submitted by the Government of the Province of Newfoundland, we are satisfied that the three Newfoundland programs have been terminated. Further, because the benefits from these programs would not be allocated over time, we find no residual benefits from any of these programs.

With respect to the Nova Scotia Improved Sire Program, the Government of the Province of Nova Scotia submitted an affidavit in support of its argument that this program had been terminated. No other evidence in support of termination was provided. We do not find an affidavit, in and of itself, sufficient for the Department to consider this program terminated. Therefore, the Department will not consider this program terminated in this sunset review and will include the subsidy rate for this program in its net subsidy calculation.

Comment 7: The CPC and GOC argue with respect to the Western Diversification Program, the Agricultural Products Board Program, and the Federal Atlantic Livestock Feed Initiative, that the Department never made a determination that any of these programs conferred a countervailable subsidy to producers and exporters of swine. Rather, although each of the programs was included in one or more administrative review questionnaires, none of the programs has ever been used or found countervailable with respect to exports of subject merchandise. As such, the CPC argues that the existence of these programs cannot support a decision that revocation of the order would likely lead to continuation or recurrence of a countervailable subsidy.

The NPPC suggests that the status of a program that has yet to be countervailed should not be treated differently from a program that has not been used in recent administrative reviews. The NPPC argues that the order acts as a general deterrent to the continued use of countervailable programs or to exporting products that are subject to an order and thus it should not be viewed as unusual that a particular program has never conferred a benefit on exported products. On this basis, the NPPC contends that simply because some programs have not been countervailed does not mean that the programs are not likely to confer a benefit in the future if the order were revoked. The NPPC therefore requests that for the purpose of the final results, the Department should calculate a proposed benefit for each such program.

In rebuttal, the Canadian respondents argue that there is no factual basis for including a subsidy rate from programs that have not been found to confer subsidies. Moreover, the GOQ argues that the Department must reject NPPC's argument and proposed facts available rates. Referring to the language of the SAA regarding the undue speculation associated with the calculation of future net countervailable subsidies, the GOQ asserts that the NPPC is asking the Department to unduly speculate what the subsidy rates might be for programs that never had subsidy rates calculated throughout the investigation and twelve administrative reviews. The GOQ further argues that the NPPC has submitted no evidence for the record that its proposed facts available rates bear any relation whatsoever to the rates likely to prevail for these programs.

Department Response: We do not agree with the NPPC that we should include a proposed benefit from any of these three programs in our final calculation of the net subsidy likely to prevail. Rather, the Department agrees with the CPC that these programs, having never been found to be countervailable with respect to exports of the subject merchandise, do not support a likelihood finding. Further, we agree with the GOQ that calculation of a rate for any of these programs would be unduly speculative. Therefore, we are not including a proposed benefit for any of these programs in our final results.

Comment 8: The CPC argues that the Ontario Swine Sales Assistance Program should be excluded from the Department's determination concerning the likelihood of continuation or recurrence of a countervailable subsidy. The CPC claims that benefits from this grant program were last provided to producers and/or exporters of the subject merchandise in 1982. Thus, the length of non-use of this program is in accordance with the Department's policy concerning a ''long track record'' of non-use of a program. The CPC, therefore, requests that this program be excluded from the Department's final determination.

The NPPC argues that other factors outweigh the CPC's objections to the inclusion of this program. Specifically, the NPPC argues that, by its own title, the Ontario Swine Sales Assistance Program is specifically related to swine. Further, despite its non-use, this program has remained in existence for

[6] *See* Questionnaire Response for the Government of the Province of Newfoundland, 1996–1997 administrative review and as submitted by the CPC in its August 9, 1999, case brief.

[7] *See* Supplemental Questionnaire Response for the Government of the Province of Nova Scotia, 1996–1997 administrative review and as submitted by the CPC in its August 9, 1999, case brief.

one particular industry for an extensive period of time and is indicative of the special nature and special benefits that have been and continue to be available to this industry. The NPPC argues that a hog farmer's decision not to a avail itself of one particular program that has remained in existence while a variety of other programs are available and have been widely used does not demonstrate the requisite track record of non-use. Rather, it suggests that hog farmers have not been required to use that particular program because they have been able to benefit from the wide variety of other programs available. Under these circumstances, the NPPC argues that a long track record of non-use has not been established.

Department Response: We disagree with the NPPC's argument that a long track record of non-use cannot be established in cases where exporters benefit from other countervailable programs that exist. We believe that such a standard would inappropriately make moot the question of program non-use in cases where any program continues to be used.

Further, we agree with the CPC that there is a long track record of non-use of the Ontario Swine Sales Assistance Program. During the original investigation of live swine from Canada, the Department found that countervailable subsidies in the form of grants were provided under this program during 1982, a period prior to the fiscal year 1984 period of investigation (''POI''). The Department has not found this program used during the POI or during any subsequent administrative review period (a period of over 14 years). As stated in the *Sunset Policy Bulletin,* where a company has a long track record of not using a program, including during the investigation, the Department normally will determine that the mere availability of the program does not, by itself, indicate likelihood of continuation or recurrence of a countervailable subsidy. Because the Ontario Swine Sales Assistance Program was not used during the POI or in any subsequent administrative review of the countervailing duty order on live swine from Canada, the Department determines that there is a ''long track record'' of non-use. Therefore, we find that the mere availability of this program does not, by itself, indicate likelihood of continuation or recurrence of a countervailable subsidy. Further, because we have determined that the program is not likely to provide a countervailable subsidy were the order revoked, we have not included a subsidy rate from this program in our calculation of the net subsidy likely to prevail if the order were revoked.

Comment 9: The GOQ argues that three programs which the Department preliminarily found likely to provide a countervailable benefit, specifically the Quebec Farm Income Stabilization Insurance Program, the Ontario Bear Damage to Livestock Compensation Program, and the Ontario Rabies Indemnification Program, in fact, have a ''long track record'' of non-use and should be excluded from the Department's final determination. The GOQ acknowledges that the *Sunset Policy Bulletin* states that where a company has a long track record of not using a program, including during the investigation, the Department normally will determine that the mere availability of the program does not, by itself, indicate likelihood of continuation or recurrence of a countervailable subsidy. The GOQ claims, however, that holding transition orders (*i.e.* orders in place as of January 1, 1995) to the same standard as non-transition orders places an unreasonable and inappropriate time-specific burden on parties that was not intended by Congress. According to the GOQ, the long track record standard was clearly established for non-transition orders, orders that will be reviewed after five years. As such, the Department is unjustified in requiring a more lengthy long track record of non-use for transition orders based solely on the fact that the order *is* a transition order. Further, the GOQ argues that an order may be otherwise revoked through administrative review based on non-receipt or non-application for benefits for a period of five years. As such, the appropriate standard for determining long track record of non-use in a sunset review should be whether, for a majority of the recent five years, there is non-use. Based on this standard, the GOQ requests the Department determine that these three programs have a long track record of non-use and, as a result, exclude them from the Department's final determination.

The NPPC argues that the continued existence of these programs is not in question. Further, the NPPC asserts that the non-use of one particular program among many other programs suggests only that the hog farmers have not been required to use that particular program because they have been able to benefit from other programs available. Under these circumstances, the NPPC asserts that a long track record of non-use has not been established and, therefore, the Department properly included these programs as likely to provide a countervailable subsidy were the order revoked.

Department Response: The Department disagrees with the GOQ that two of these programs have a long track record of non-use. The Ontario Bear Damage to Livestock Compensation Program was found to provide a countervailable subsidy during the 1994–1995 administrative review (62 FR 18087, April 14, 1997). The Quebec Farm Income Stabilization Insurance Program provided a countervailable subsidy as recently as April 1, 1996 (*see* Substantive Response of GOQ at 11). Therefore, even if the appropriate standard for determining long track record was five years, these two programs do not have a long track record of non-use.

With respect to the Ontario Rabies Indemnification Program, this program was last found to provide a countervailable subsidy during the 1993–1994 administrative review (61 FR 52408, October 7, 1996; Amended, 61 FR 58383, November 14, 1996). Although the Department does not agree with the GOQ that because an order could be revoked through administrative review based on five years of non-use, the long track record standard in sunset reviews must be five years, we do agree that there is a long track record of non-use of the Ontario Rabies Indemnification Program. Therefore, we have not included a subsidy rate from this program in our calculation of the net countervailable subsidy likely to prevail if the order were revoked. Department does not agree that this constitutes a long track record of non-use.

Comment 10: The GOC and GOQ argue that the Department has twice refused to consider the requests of the GOQ and the GOC for ''green-box'' treatment for the Support for Strategic Alliances and Technology Innovation programs under the Agri-Food Agreement because the benefits conferred by them are *de minimis* and would not affect the subsidy rate. Having refused to consider requests for green-box treatment, the GOC and GOQ argue, the Department cannot now find these programs to be countervailable. If the Department is to consider these programs, the GOQ asserts that the Department must make a determination regarding its ''green-box'' requests and the countervailability of these programs in the course of this sunset review.

In addition, the GOC and GOQ argue that these programs expired March 31, 1998. The GOQ states that the Department, in its 1996–1997 administrative review, noted that the Agri-Food Agreement was enacted by both the governments of Canada and Quebec for the period April 1, 1993

through March 31, 1998. The GOQ states that this program has not been replaced. The GOQ also provided an affidavit from a Quebec government official stating that the program has expired and has not been replaced. As such, the GOQ requests that the Department find the Agri-Food Agreement has expired and eliminate it from the Department's final sunset determination.

The NPPC did not address these programs.

Department Response: With regard to the Technology Innovations program and the Support for Strategic Alliances program, the Department continues to find that any benefit to the subject merchandise under either program, or both programs combined, is so small that there is no cumulative impact on the overall subsidy rate. Accordingly, because there is no impact on the overall subsidy rate in this sunset review, we have not included the benefits from Technology Innovations program and the Support for Strategic Alliances program in the calculated net subsidy for this review. Therefore, as in prior administrative reviews, we determine that it is not necessary to address the issue of whether benefits under these programs are non-countervailable as green box subsidies pursuant to section 771(5B)(F) of the Act.[8]

Comment 11: The Canadian respondents argue that the Department's decision to continue to treat the Quebec Farm Income Stabilization Insurance (''FISI'') program as countervailable is contrary to law. The GOQ states that in two administrative reviews, the Department treated the FISI program as non-countervailable as instructed by Binational Panels convened under the United States-Canada Free Trade Agreement. Furthermore, the GOQ adds, the Department has never found an above *de minimis* net subsidy for FISI in any administrative review of this order. Based on this information, the GOQ argues, the Department should determine that the FISI program is not countervailable.

Department Response: The Department disagrees with the Canadian respondents. As we explained in *Live Swine from Canada; Final Results of Countervailing Duty Administrative Reviews,* 61 FR 52408 (October 7, 1996), the remand determinations issued pursuant to panel decisions in prior reviews requested the Department to reconsider certain aspects of the underlying methodology used in those determinations. Because panel decisions are binding only on the proceeding of that respective review, none of these remand determinations requires the Department to establish a policy affecting all subsequent reviews, as they are based on different administrative records. Therefore, because the Department is not bound by these panel decisions with respect to its decision in this sunset review, because the Department has found the FISI program countervailable even after the latest remand determination concerning FISI and because the FISI program continues to exist, the Department continues to find the FISI program countervailable.

Furthermore, as explained in *Live Swine from Canada; Final Results of Countervailing Duty Administrative Reviews,* 61 FR 52408 (October 7, 1996), where the Department has determined a program to be countervailable, it is the Department's policy not to reexamine the issue in subsequent reviews unless new information or evidence of changed circumstances is submitted which warrants reconsideration. In this sunset review, the GOQ has presented essentially the same arguments as in previous reviews but provided no new information or evidence of changed circumstances concerning the countervailability of FISI. Because the cumulative information on the record of this proceeding provides no evidence that FISI is not countervailable, the Department will continue to treat this program as a countervailable subsidy.

Comment 12: The CPC argues that the Newfoundland Hog Price Support Program and the Newfoundland Farm Products Corporation Hog Price Support Program, identified separately by the Department in its *Preliminary Results* are, in actuality, the same program. The CPC requests that the Department correct this error in the final results of this sunset review.

The NPPC did not address this issue. However, as discussed above, the NPPC requested that the Department apply a neutral facts available rate to this program.

Department Response: As discussed above, for the purposes of these final results, we determine that the Newfoundland Hog Price Support Program was terminated without residual benefits. Therefore, we have not included any benefit from this program in our calculation of the net countervailable subsidy likely to prevail were the order to be revoked. With respect to the Newfoundland Farm Products Corporation Hog Price Support Program, the Department agrees with the CPC that this is the same program as the Newfoundland Hog Price Support Program. In the notice of preliminary results of the 1987–1988 administrative review, the Department first identifies the program by name as the Newfoundland Hog Price Support Program Farm and then discusses the Newfoundland Farm Products Corporation Hog Price Support Program (*see* 55 FR 20812 (May 21, 1990)).

Comment 13: The Canadian respondents argue that three program rates from the original investigation, which used a different calculation methodology, must be trade weighted in order to be combined with rates from subsequent administrative reviews. The CPC argues that the subsidy rates calculated in the original investigation of this order use a methodology which the Department subsequently reexamined and ultimately rejected in the first administrative review. This new methodology weight-averages benefits from individual provincial programs by that province's share of exports to the United States (''trade-weighting''). This trade-weighted methodology has been used in every administrative review of this order. The CPC argues that the inclusion of three programs from the original investigation, which were not trade-weighted, and seven programs from subsequent administrative reviews, which were trade-weighted, is illogical. The CPC argues that the Department is combining the rates of programs that were calculated in completely different manners. As such, the CPC requests that the rates from the original investigation be trade-weighted to reflect the Department's most current and accepted methodology.

The NPPC argues that the Department properly used the rates found in the investigation, or review. Acknowledging that different calculation methodologies may have been used in subsequent proceedings, the NPPC argues nonetheless that the Department should not undertake to recalculate these rates based on different methodologies in different administrative reviews that are based on different records. The NPPC asserts that, accordingly, the

[8] *See*, e.g., *Final Affirmative Countervailing Duty Determination: Steel Wire Rod from Germany,* 62 FR 54990, 54995 (October 22, 1997); *Certain Carbon Steel Products from Sweden; Preliminary Results of Countervailing Duty Administrative Review,* 61 FR 64062, 64065 (December 3, 1996) and *Certain Carbon Steel Products from Sweden; Final Results of Countervailing Duty Administrative Review,* 62 FR 16549 (April 7, 1997); *Final Negative Countervailing Duty Determination: Certain Laminated Hardwood Trailer Flooring (''LHF'') From Canada,* 62 FR 5201 (February 4, 1997); *Industrial Phosphoric Acid From Israel; Preliminary Results of Countervailing Duty Administrative Review,* 61 FR 28845 (June 6, 1996) and *Industrial Phosphoric Acid From Israel; Final Results of Countervailing Duty Administrative Review,* 61 FR 53351 (October 11, 1996).

Department's preliminary calculations are correct and should not be revised.

Department Response: The Department agrees with the Canadian respondents. Following the original investigation, the Department adopted a trade-weighting methodology for the calculation of subsidy rates for the programs benefitting live swine from Canada. The Department stated, in *Live Swine from Canada; Final Results of Countervailing Duty Administrative Review*, 54 FR 651 (January 9, 1989), that the trade-weighted methodology provides a better measure of the subsidy on exports to the United States than the methodology used in the original investigation. This is because it gives greater weight to those provinces which export more hogs to the United States and therefore more accurately reflects the level of subsidy on the subject merchandise. The Department continues to find this true. Therefore, for purposes of combining subsidy rates from the investigation (which were not trade-weighted) with those calculated in the administrative reviews, the Department finds that it is appropriate to trade weight the rates from the original investigation. We do not view this as the calculation of new rates. Rather, the Department is using the rates from the original investigation as adjusted by the methodology currently in use. The two programs from the original investigation which the Department applied the trade-weighting methodology to are the Quebec Farm Income Stabilization Insurance Program (''FISI'') and the New Brunswick Livestock Incentives Program (''NBLI''). The trade-weighted subsidy rate for FISI is Can$0.00320542/lb. and the trade-weighted subsidy rate for NBLI is Can$0.00000054/lb.

Comment 14: The CPC argues that the remaining eight programs [9] used by the Department in its preliminary net subsidy calculation have never collectively provided more than a *de minimis* level of benefit in any of the twelve administrative reviews of this order. As such, the existence of these programs does not support a finding of likelihood of continuation or recurrence of a countervailable subsidy were the order revoked.

The CPC argues that the fact that none of these programs is national in scope but, rather, each is limited to a particular province, is crucial to the Department's sunset analysis. Asserting that the SAA contemplates that the Department will take into account a company's history of use or non-use of a particular program, the CPC argues that, because the order is administered and rates are calculated on a country-wide basis, the Department should take into account provincial shares of exports over time to determine use or non-use of particular provincial programs.

The CPC notes that the Department has never calculated an above *de minimis* benefit from the two New Brunswick programs and argues that the minimal exports from New Brunswick have never contributed to the overall CVD rate. Thus, Canadian exports have a long history of not benefitting from these provincial programs. Additionally, the CPC asserts that, based on the fact that Quebec has virtually no exports of the subject merchandise to the United States, as with the New Brunswick programs, Canadian exports have a long history of not using Quebec programs. The CPC adds that the reason for both New Brunswick's and Quebec's consistently very low share of exports is the growth of the pork packing industry in Quebec and the constant demand by packers in that province for live swine. This factor has been constant and will not change according to the CPC.

With respect to Ontario, the CPC argues that although Ontario exports significant numbers of live swine to the United States, because of the very small nature of benefits from the Ontario programs, the Department has never calculated an above *de minimis* benefit for these programs over the history of these proceedings. In conclusion, the CPC argues that the existence of these eight programs do not support a finding of a likelihood of continuation or recurrence of a countervailable subsidy were the order to be revoked.

The NPPC argues that in an administrative review, the Department properly weight-averages the subsidy rate on the basis of actual shipments because it is attempting to calculate a precise cash deposit rate that will actually be applied to exports. However, the NPPC argues that the sunset proceeding is substantially different from an administrative review, and thus the calculations in a sunset review are also substantially different from the calculations made in an administrative review. Given the objective of the sunset review is to calculate an estimated rate that would result if the order were revoked, the NPPC argues that it would not be proper to weight average the rate on the basis of past levels of exports given that the absence of exports may have been the direct result of the countervailing duty order and elimination of the order would likely result in the resumption of shipments. Accordingly, the NPPC argues that the Department has properly calculated the net subsidy rate.

Department Response: The Department continues to find that where a countervailable subsidy program continues to exist and provides benefits to producers and/or exporters of the subject merchandise, it is appropriate to include such a program in the calculation of the net countervailable subsidy likely to prevail were the order revoked. Despite the limited use of some of these eight programs, producers and/or exporters of live swine from Canada have received, and/or have the potential to receive, countervailable benefits from each of these programs.[10] However, because the Department is combining rates calculated during administrative reviews, during which benefits were weighted based on province-specific exports, and the Department has determined it is appropriate to trade-weight the benefits from the original investigation in order to make a comparison based on the same methodology over the life of the order, we believe that the CPC's arguments and concerns are adequately addressed. As to the NPPC's arguments, while we agree that any rate calculated in a sunset review will not be applied to entries, we do not agree that our calculations should not be as precise as possible. Because the Department administers this order on a country-wide basis and has consistently, in every administrative review, determined that it is appropriate to trade weight benefits by province-specific exports, for the purpose of determining the net countervailable subsidy likely to prevail were the order revoked, as discussed above, we determine that trade weighting of benefits is appropriate.

Comment 15: The Canadian respondents disagree with the Department's use of the *de minimis* rate from the 1989–1990 administrative review for the purpose of this sunset review. The CPC asserts that the Department provided no explanation for its choice of $0.0030/lb. as the *de minimis* rate. The CPC further asserts that the Department revised the

[9] The eight programs are: Quebec Farm Income Stabilization Program, New Brunswick Livestock Incentives Program, New Brunswick Swine Industry Financial Restructuring Program, Technology Innovation Program under the Agri-Food Agreement, Support for Strategic Alliances Program under the Agri-Food Agreement, Ontario Livestock and Poultry and Honeybee Compensation Program, Ontario Bear Damage to Livestock Compensation Program, and Ontario Rabies Indemnification Program.

[10] The CPC claims that the Technology Innovation Program under the Agri-Food Agreement and the Support for Strategic Alliances Program under the Agri-Food Agreement were terminated on March 31, 1998 and argue that neither program can provide a basis of support for the Department's *Preliminary Results.*

methodology used to calculate the *de minimis* rates in the 1995–1996 administrative review so that the weighted-average selling price used in the calculation reflects the weight of a live swine. The CPC argues that the Department should, using pricing data from the most recently completed review, determine that the *de minimis* rate is C$0.0035/lb.

The NPPC did not address this issue.

Department Response: The Department agrees with the CPC that the *de minimis* rate from the 1989–1990 administrative review, by itself, is not the appropriate *de minimis* rate for the purpose of this sunset review. Because the net subsidy has never been reported on an *ad valorem* basis over the life of this order, the Department calculated the *de minimis* rate in terms of cents per pound (or kilogram) in the administrative reviews. We agree with the CPC that the Department adjusted the methodology for calculating the *de minimis* rate so that the weighted-average selling price used in the calculation reflects the weight of a live swine. However, we are not persuaded that such a change in methodology negates the validity of *de minimis* rates calculated prior to the change in methodology. Nor are we convinced that the use of the most recently calculated rate is appropriate. In considering the appropriate *de minimis* rate for purposes of this sunset review, we note that the *de minimis* rates have fluctuated over the life of the order, ranging from C$0.0028/lb. to C$0.0041/lb. Therefore, we determined not to rely on any one rate, but rather to apply as the *de minimis* standard in this sunset review an average of previously calculated rates. For this purpose, we calculated the simple average of the rate from the 1986–1997 administrative reviews,[11] in terms of cents per pound. As a result, we find the *de minimis* rate to be C$0.0033/lb. (*see* Memo to File, RE: *De Minimis* Calculation, dated October 28, 1999).

Comment 16: The CPC claims that mathematical errors exist in the Department's calculations of the subsidy rates for six programs cited in the *Preliminary Results*.[12] Specifically, the CPC argues that the Department's conversions from Canadian cents per kilogram to Canadian cents per pound in its *Preliminary Results* were done incorrectly for these six programs. They request that the Department correct these errors for its final determination. In addition, the CPC states that the Department, in its *Preliminary Results*, used both subsidy rates rounded to the fourth decimal place and subsidy rates rounded to the eighth decimal place.[13] The CPC requests that the Department round all subsidy rate calculations to the same decimal place.

The NPPC did not address these issues.

Department Response: The Department agrees with the CPC and will correct for the final the conversion of the subsidy rates from cents per kilogram to cents per pound. As a result of our corrections, we find the net countervailable subsidies likely to prevail were the order revoked: Can$0.00000003/lb. for the Ontario Bear Damage to Livestock Compensation; Can$0.00000004/lb. for Ontario Livestock and Poultry and Honeybee Compensation Program; and Can$0.00000013/lb. for Ontario Rabies Indemnification; and Can$0.00000002/lb. for Nova Scotia Improved Sire Program. As such, the Department will rely on these values for its net subsidy calculations in its final determination.

Final Results of Review

As discussed more fully above, we determine that the Technology Innovation and Support for Strategic Alliances Programs under the Agri-Food Agreement are programs that, even if countervailable, would not have a measurable impact on the Department's net subsidy calculation. Further, we find that the Newfoundland Hog Price Support Program, the Newfoundland Hog Price Stabilization Program, and the Newfoundland Weanling Bonus Incentive Program are programs that have been terminated without residual benefits and we note that, even if these programs had been found to continue, they would have no measurable impact on the Department's net subsidy calculation. Additionally, we find there is a long track record of non-use of the Ontario Rabies Indemnification Program.

We find that the Ontario Livestock and Poultry and Honeybee Compensation Program, the Ontario Bear Damage to Livestock Compensation Program, the New Brunswick Swine Industry Financial Restructuring Program, the Quebec Farm Income Stabilization Insurance Program, and the New Brunswick Livestock Incentives Program continue to exist and provide, or have the potential to provide, countervailable benefits were the order revoked. We combined the subsidy rates from these programs and found the net countervailable subsidy to be Can$0.0032/lb., below the *de minimis* level of Can$0.0033/lb. (*see* Memo to File, RE: Final Net Subsidy Calculations).

Based on the reasons cited above and those set forth in our *Preliminary Results*, the Department finds that the net countervailable subsidy likely to prevail were the order revoked is *de minimis*. Therefore, as a result of this sunset review, the Department finds that revocation of the countervailing duty order would not be likely to lead to continuation or recurrence of a countervailable subsidy.

As result of this determination by the Department that revocation of the countervailing duty order on live swine from Canada would not be likely to lead to continuation or recurrence of a countervailable subsidy, the Department, pursuant to section 751(d)(2) of the Act, will revoke this countervailing duty order. Pursuant to 751(c)(6)(A)(iv) of the Act, this revocation is effective January 1, 2000. The Department will instruct the U.S. Customs Service to discontinue suspension of liquidation and collection of cash deposits on entries of the subject merchandise entered or withdrawn from warehouse on or after January 1, 2000 (the effective date). The Department will complete any pending administrative reviews of this order and will conduct administrative reviews of subject merchandise entered prior to the effective date of revocation in response to appropriately filed requests for review.

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial

[11] Of the twelve administrative reviews of this order, the Department is creating an average of the *de minimis* levels using the last eleven. The *de minimis* level calculations are not available from the first administrative review (1985–1986 administrative review). The Department attempted to obtain the *de minimis* level calculations from the sunset review participants, however, these calculations either do not exist or could not be located (*see* Memo to File, RE: Request for *De Minimis* Calculations, dated October 28, 1999).

[12] The six programs are: Nova Scotia Improved Sire Program, Technology Innovation Program under the Agri-Food Agreement, Support for Strategic Alliances Program under the Agri-Food Agreement, Ontario Livestock and Poultry and Honeybee Compensation Program, the Ontario Bear Damage to Livestock Compensation Program, and Ontario Rabies Indemnification Program.

[13] The Department used subsidy rates rounded to the fourth decimal place for the following subsidy programs: Nova Scotia Improved Sire Program, Technology Innovation Program under the Agri-Food Agreement, Ontario Rabies Indemnification Program, Ontario Bear Damage to Livestock Compensation, and Ontario Livestock and Poultry and Honeybee Compensation Program.

protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 28, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28775 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–801]

Final Results of Expedited Sunset Reviews: Antifriction Bearings From Germany

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset reviews: antifriction bearings from Germany.

SUMMARY: On April 1, 1999, the Department of Commerce (''the Department'') initiated sunset reviews of the antidumping duty orders on ball bearings, cylindrical roller bearings, and spherical plain bearings (collectively, ''antifriction bearings'') from Germany pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and an adequate response filed on behalf of a domestic interested party and an inadequate response from respondent interested parties in each of these reviews, the Department decided to conduct expedited reviews. As a result of these reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to the continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Mark D. Young or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3207 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 4, 1999.

Statute and Regulations

These reviews were conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for conducting sunset reviews are set forth in Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations''), and 19 CFR part 351 (1999) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Scope

The products covered by these reviews are antifriction bearings (''AFBs'') from Germany, which include ball bearings (''BBs''), cylindrical roller bearings (''CRBs''), and spherical plain bearings (''SPBs'') and parts thereof. For a detailed description of the products covered by these orders, including a compilation of all pertinent scope determinations, refer to the notice of final results of expedited sunset reviews on AFBs from Japan, published concurrently with this notice.

History of the Orders

On May 3, 1989, the Department issued final determinations of sales at less than fair value (''LTFV'') with respect to imports of AFBs from Germany.[1] The antidumping duty orders on AFBs were issued by the Department on May 15, 1989, and the dumping margins that were found in the final determinations of sales at LTFV were affirmed.[2] Since the imposition of these orders, the Department has conducted nine administrative reviews.[3] The orders remain in effect for all manufacturers and exporters of the subject merchandise. In the final results of the 1995–1996 and 1997–1998 administrative reviews of these antidumping duty orders, the Department found that antidumping duties were being absorbed by German producers of AFBs.[4] This review covers all producers and exporters of AFBs from Germany.

Background

On April 1, 1999, the Department initiated sunset reviews of the antidumping duty orders on AFBs from Germany, pursuant to section 751(c) of the Act. By April 16,1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulation*, we received notices of intent to participate from the following parties: Link-Belt Bearing Division (''Link-Belt''); The Torrington Company (''Torrington''); MPB Corporation (''MPB''); Roller Bering Company of America (''RBC''); New Hampshire Ball Bearing, Inc. (''NHBB''); and NSK Corporation (''NSK Corporation''). Each of these parties claimed status as domestic interested parties on the basis that they are a domestic producer, manufacturer, or wholesaler of one or more of the products subject to these orders.[5]

Within the deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i), on May 3, 1999, the Department received complete substantive responses from each of these domestic interested parties with the exception of Link-Belt. In addition, SKF USA and SKF GmbH (collectively ''SKF'') notified the Department that they would not file a substantive response in the sunset reviews of the AFBs orders. Finally, we received a complete substantive response on behalf of FAG Kugelfischer Georg Schäfer AG and FAG Bearings Corporation (collectively ''FAG''). FAG asserts that it is a foreign manufacturer and exporter of BBs and CRBs and is, therefore, an interested party within the meaning of section 771(9)(A) of the Act. We received rebuttal comments from Torrington and MPB, RBC, NHBB, NSK Corporation, and FAG on May 12, 1999, within the deadline. On May 21 and May 24, 1999, we informed the International Trade Commission (''Commission'') that, on the basis of inadequate response from respondent interested parties, we were conducting expedited sunset reviews of these orders

[1] See Final Determination of Sales at Less Than Fair Value; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the Federal Republic of Germany, May 3, 1989, 54 FR 18992.

[2] See Ball Bearings, Cylindrical Roller Bearings, and Spherical Plain Bearings and Parts Thereof From the Federal Republic of Germany; Antidumping Duty Order, May 15, 1989 54 FR 20900.

[3] See Ball Bearings, Cylindrical Roller Bearings, and Spherical Plain Bearings and Parts Thereof From the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review, 64 FR 35590 (July 1, 1999); 63 FR 33320 (June 18, 1998); 62 FR 54043 (October 17, 1997); 62 FR 2081(January 15, 1997); 61 FR 66472 (December 17, 1996); 60 FR 10900 (February 28, 1995); 58 FR 39729 (July 26, 1993); 57 FR 28360 (June 24, 1992); and 56 FR 31692 (July 11, 1991).

[4] See Final Results of Antidumping Duty Administrative Reviews, 62 FR 54043 (October 17, 1997) (1995–96); and Final Results of Antidumping Duty Administrative Reviews, 64 Fed. Reg. 35590 (July 1, 1999) (1997–98).

[5] Torrington, RBC, and NHBB filed with respect to BBs, CRBs, and SPBs. Link-Belt and MPB filed with respect to BBs and CRBs. NSK Corporation filed with respect to BBs only.

consistent with 19 CFR 351.218(e)(1)(ii)(C)(*2*). (*See* Letters to Lynn Featherstone, Director, Office of Investigations, USITC, from Jeffrey A. May, Director, Office of Policy.)

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). Therefore, on August 5, 1999, the Department determined that the sunset reviews of the antidumping duty orders on AFBs from Germany are extraordinarily complicated and extended the time limit for completion of the final results of these reviews until not later than October 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[6]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted these reviews to determine whether revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order. Pursuant to section 752(c)(3) of the Act, the Department shall provide to the Commission the magnitude of the margin likely to prevail if the order is revoked.

The Department's determinations concerning adequacy, continuation or recurrence of dumping, and the magnitude of the margin are discussed below. In addition, the parties' comments with respect to adequacy, the continuation or recurrence of dumping, and the magnitude of the margin are addressed within the respective sections below.

Adequacy

As noted above, we notified the Commission that we intended to conduct expedited reviews of these orders. On June 10, 1999, we received comments on behalf of Torrington and MPB supporting our determination to conduct expedited reviews. NHBB and NSK Corporation also submitted comments on whether expedited sunsets review were warranted. In their submissions, both parties assert that most of the domestic interested parties that submitted substantive responses are in favor of revocation of the various orders on antifriction bearings. These parties also offered new argument regarding the likely effect of revocation of the orders.

The magnitude of domestic support for continuation or revocation of an order, however, does not enter into the Department's determination of adequacy of participation nor, for that matter, the Department's determination of likelihood. The Department made clear in its regulations that a complete substantive response from one domestic interested party would be considered adequate for purpose of continuing a sunset review (see section 351.218(e)(1)). Nowhere in the statute or legislative history is there reference to consideration of domestic industry support during the course of a sunset review (other than the statutory provision that, if there is *no* domestic industry interest in continuation of the order, the Department will revoke the order automatically). In fact, the Senate Report (at 46) makes clear that the purpose of adequacy determinations in sunset reviews is for the Department to determine whether to issue a determination based on the facts available without further fact-gathering. Further, the statute, at section 751(c)(1), specifies that the Department is to determine whether revocation of an order would be likely to lead to continuation or recurrence of dumping. Section 752(c) specifies that the Department is to consider the weighted-average dumping margins determined in the investigation and subsequent reviews, as well as the volume of imports of the subject merchandise for the period before and the period after the issuance of the order.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping when (a) dumping continued at any level above de minimis after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In their joint substantive response, Torrington and MPB argue that revocation of the antidumping duty orders on the subject merchandise would be likely to lead to continuation of dumping. They base this conclusion on the fact that dumping continued at levels above *de minimis* levels after the issuance of the orders. RBC also argues that, given that dumping margins continued to exist after the issuance of the orders, the Department must conclude that dumping would be likely to continue or recur if the orders were revoked. Torrington and MPB also assert that an examination of import volumes is not necessary because dumping continued. Using pre- and post-order statistics for complete unmounted BBs, which Torrington and MPB assert is the only category for which statistics are available on a consistent basis, they argue that post-order declines in import volumes provide strong additional support for a determination that dumping is likely to continue or recur were the orders revoked. In conclusion, Torrington and MPB assert that no ''good cause'' exists to consider other factors. However, if the Department were to consider other factors, they contend, it should acknowledge that, in each review period, it has found that home market sales by German producers were below the cost of production requiring that such sales be disregarded for purposes of determining formal market value or normal value.

NHBB and NSK Corporation assert that revocation of the orders is not likely to result in continuation or recurrence of dumping. NHBB bases its assertion on the fact that dumping would undercut the U.S. domestic price structure, thus causing injury to the very industry of which foreign owners are a part. NSK Corporation supports its assertion on the basis that the margin of dumping would be *de minimis*. In addition, the respondent interested party in these sunset reviews of BBs and CRBs, FAG, asserts that revocation of the order would lead to a continued decrease in dumping, as evidenced by the decline in the level of dumping in recent years. FAG bases its conclusion

[6] *See Tapered Roller Bearings, 4 Inches and Under From Japan, et al.: Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 42672 (August 5, 1999).

on the following factors: the decrease in value and volume of exports of the subject merchandise; its significant reduction of its U.S. resales of subject merchandise; its shift in production to its U.S. facilities and its ability to source product from third countries that are not covered by the antidumping duty orders; and decreasing dumping margins.

Furthermore, the respondent argues that the range of subject merchandise sold by FAG and other large bearing companies consists of thousands of different models, sold in differing quantities and into many different market sectors, tends to breed a certain percentage of ''random dumping.'' FAG uses charts to support its argument that the analysis of the top ten sales for BBs and CRBs in the 1994–1995 and 1995–1996 reviews alone account for nearly 50 percent of the dumping margins in each case.[7] They argue that these sales were only ten of tens of thousands of sales made during a full review period and this would tend to negate any argument that there was chronic pattern of dumping by FAG. Therefore, it asserts that these dumped sales were extrapolated onto the wider selling and pricing patterns of the company as a whole, which led to arbitrary and unfair results. FAG notes further that the ''random dumping'' can explain the inevitable percentage of dumping that recurs from year to year, as evidenced by the fact that none of the large bearing manufacturers/exporters have achieved a *de minimis* margin in the past nine reviews.

In their rebuttal comments, Torrington and MPB assert that the Department should take into account the submitter's affiliation in its consideration of comments of various parties filing as domestic producers. Further, citing to Ball Bearings and Parts Thereof From Thailand; Final Results of Changed Circumstances Countervailing Duty Review and Revocation of Countervailing Duty Order, 61 FR 20799, 20800 (May 8, 1996), they argue that the Department has recognized that domestic producers who are affiliated with subject foreign producers and exporters do not have a common ''stake'' with the petitioner in the maintenance of the orders. Additionally, Torrington and MPB argue that other parties' comments addressing issues other than margins and import volumes should not be considered unless such parties establish ''good cause'' to consider such additional factors, which, in these reviews, they have not done.

[7] *See* May 3, 1999, Substantive Response of the Respondent at Appendix 5 Chart 3.

Torrington and MPB argue further that FAG's admission that its imports and sales have decreased strongly supports a determination that FAG cannot resume selling at pre-order volumes without resorting to dumping. Torrington and MPB also note that FAG's reliance on current margins to predict likely post-revocation margins ignores the fact that the investigation margins are the only margins which reflect the exporter's behavior without the discipline of the orders. Finally, Torrington and MPB note that if FAG's ''random dumping'' is in fact ''inevitable,'' then under FAG's own argument dumping will continue.

In its rebuttal comments, FAG concurs with the substantive response of NSK Corporation which pointed out that the Department's methodology for calculating dumping margins in an investigation has fundamentally changed since the original LTFV investigation in AFBs ten years ago. FAG argues further that Torrington, MPB, and RBC erred in their reasoning to use the original investigation margins for purposes of these sunset reviews. According to FAG, the analyses presented by these domestic parties were not supported by empirical data, and that they erroneously presumed that even if dumping continued at levels above *de minimis*, and import volume decreased, there is a *prima facie* assumption of continued dumping at investigation levels and a mandatory requirement that these original margins be adopted.

FAG maintains that import levels for the subject merchandise increased 40 percent between fiscal years 1993 and 1997, and that dumping margins have decreased. Where margins have not declined over time, FAG contends, an explanation exists insofar as the Department changed its methodologies during the 1994–1995 administrative review. In light of the above, FAG argues, the Department should calculate projected dumping rates based on more recent reviews.

As discussed in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and the House Report at 63–64, existence of dumping margins after the order is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline of the order were removed. Further, as noted above, in determining whether revocation of an order is likely to lead to continuation or recurrence of dumping, the Department considers the margins determined in the investigation and subsequent administrative reviews and the volume of imports. Whatever relevance the arguments of NHBB and NSK concerning possible disincentives for producers and/or exporters to dump in the U.S. market might have had is mooted by the evidence that dumping continues and has continued over the life of the orders.

In the instant proceedings, dumping margins above *de minimis* continue to exist with respect to each of the orders. Therefore, given that dumping has continued over the life of the orders, the Department determines that dumping is likely to continue if the orders were revoked. Because we have based this determination on the fact that dumping continued at levels above *de minimis*, we have not addressed the comments submitted by Torrington and MPB with respect to ''good cause'' and sales below the cost of production, nor have we addressed the arguments of other interested parties regarding the condition of the U.S. market.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that, consistent with the SAA and House Report, the Department will normally provide to the Commission a margin from the investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department will normally provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the Sunset Policy Bulletin.)

In their joint substantive response, Torrington and MPB argue that the margins that are likely to prevail should the orders be revoked are the dumping margins found for each company in the original investigations (as opposed to margins calculated in succeeding annual administrative reviews), including margins based on best information available, except where the most current margin, increased by the Department's duty absorption determination, exceeds the original investigation margin. With respect to BBs, RBC argues that the margins from the original investigation are the margins likely to prevail were the order revoked.

NHBB argues that the dumping margins likely to prevail if the orders were revoked are *de minimis.* NHBB goes on to argue that it would be illogical for companies with significant U.S. bearings investments to undercut that investment by dumping. In addition, NHBB argues that the Department should not report margins from the original investigation, asserting that the SAA provides that, in certain instances, it is more appropriate to rely on a more recently calculated margin. NHBB also asserts that one such instance is where, as in the AFBs cases, dumping margins have declined over the life of the orders and imports have remained steady or increased. Additionally, NHBB argues that, because the structure of the U.S. domestic industry that exists today bears little resemblance to the industry when the antidumping duty orders were imposed in 1989, the rates from the original investigation are inappropriate as indicators of the rates that would be found upon revocation. Finally, NHBB argues that, in light of changes in the methodology used to calculated antidumping duty margins introduced by the Uruguay Round, use of margins calculated by the Department prior to the URAA would be unfair and would be contrary to the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

Similarly, NSK Corporation and FAG argue that the margins likely to prevail are *de minimis.* As support, NSK Corporation argues that, were the orders not in existence, the Department would apply the average-to-average methodology used in an investigation as opposed to the transaction-to-average methodology common to administrative reviews to measure the extent of any dumping. In such a case, NSK Corporation states that it believes any margin found would be below the two-percent *de minimis* level applicable in investigations. NSK Corporation argues further that the Department's unorthodox approach during the original investigation, plus the liberal use of best information available, skewed the results of the original investigation seriously, rendering those results inappropriate indicators of the magnitude of the margin likely to prevail were the orders revoked. Finally, NSK Corporation also argues that dumping margins have declined over time with respect to importations of BBs while, at the same time, importations have remained at or around 20 percent of the U.S. market. As support, it cites to The Economic Effects of Antidumping and Countervailing Duty Orders and Suspension Agreements, USITC Pub. 2900, Inv. No. 332–334, at 14–26—14–31 (June 1995).

FAG points out that 751(a)(4) of the Act permits the Department to conduct a duty absorption inquiry during any administrative review initiated two years or four years after the publication of an antidumping duty order. Notwithstanding this provision, FAG notes that the Department conducted duty absorption inquiries in the 1995–1996 and 1997–1998 administrative reviews, and, therefore, its duty absorption inquiry is unlawful and cannot be used.

In addition to the aforementioned argument, FAG challenges the methodology chosen by the Department to calculate duty absorption rates, stating that it was arbitrary and capricious, as well as contrary to language found in 19 U.S.C. 1675(a)(4). FAG asserts that the Department has merely calculated the percentage of FAG's U.S. affiliate's sales with dumping margins versus total sales and concluded that this figure demonstrates duty absorption within the meaning of the statute. FAG claims that there is no connection between the percentage of sales of a U.S. importer with dumping margins and any alleged duty absorption by the affiliated foreign producer or exporter.

In their rebuttal comments, Torrington and MPB argue that other parties' comments ignore the Department's stated policies regarding the selection of margins likely to prevail and ignore the Department's duty absorption findings. Citing to the Sunset Policy Bulletin, Torrington and MPB argue that the Department's policies are clear '' normal reliance on the margins from the investigation as the only margins that reflect the behavior of exporters without the discipline of the order and rejection of margins from administrative reviews in which the Department found duty absorption. Torrington and MPB argue that the two-percent *de minimis* standard is not applicable to sunset reviews. Further, they contend that there is no authority which would authorize or justify the rejection of the investigation rates on the basis of the particular methodology used at the time of the investigations. Additionally, they argue that, with respect to claims that more recent margins should be used based on declining margins accompanied by steady or increasing imports, it is the responsibility of such claimants to provide information regarding companies' relative market share. Since no such information was provided, the Department should not accept these assertions since imports of certain BBs have actually declined since the imposition of the order.

In its rebuttal comments, FAG notes that Torrington erred in relying on the highest dumping margins calculated in each review period rather than the average. Furthermore, FAG argues that Torrington relied upon margins calculated using facts available. FAG asserts that, if the Department assesses margin levels based on actual calculated dumping rates, taken as averages for each review period, it will determine that, but for changes in calculation methodologies, margins have decreased over time.

We agree with Torrington, MPB, and RBC that, normally, we will provide a margin from the original investigation because that is the rate that reflects the behavior of exporters absent the discipline of the order. As noted above, exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations.

In the Sunset Policy Bulletin we indicated that, consistent with the SAA at 889–90 and the House Report at 63, we may determine, in cases where declining (or no) dumping margins are accompanied by steady or increasing imports, that a more recently calculated rate reflects that companies do not have to dump to maintain market share in the United States and, therefore, that dumping is less likely to continue or recur if the order were revoked. Alternatively, if a company chooses to increase dumping in order to increase or maintain market share, the Department may provide the Commission with a more recently calculated margin for that company. The Sunset Policy Bulletin provides that we will entertain such considerations in response to argument from an interested party. Further, we noted that, in determining whether a more recently calculated margin is probative of an exporters behavior absent the discipline of an order, we will normally consider the company's relative market share, with such information to be provided by the parties. It is clear, therefore, that in determining whether a more recently calculated margin is probative of the behavior of exporters were the order revoked, the Department considers company-specific exports and company-specific margins. Additionally, although we expressed a clear preference for market share information, in past sunset reviews where market share information was not available, we relied on changes in import volumes between the periods before and after the issuance of the

order. *See, e.g.,* Final Results of Expedited Sunset Review: Stainless Steel Plate from Sweden, 63 FR 67658 (December 8, 1998), and Final Results of Expedited Sunset Reviews: Certain Iron Construction Castings From Brazil, Canada, and the People's Republic of China, 64 FR 30310 (June 7, 1999).

In sunset reviews, although we make likelihood determinations on an order-wide basis, we report company-specific margins to the Commission. Therefore, it is appropriate that our determinations regarding the magnitude of the margin likely to prevail be based on company-specific information. Generic arguments that margins decreased over the life of the orders while at the same time, exporters' share of the U.S. market remained constant do not address the question of whether any particular company decreased its margin of dumping while at the same time maintaining or increasing market share. In fact, such generic argument may disguise company-specific behavior demonstrating increased dumping coupled with increased market share.

FAG provided company-specific value and volume information concerning its exports of BBs and CRBs, and it argued that exports of the subject merchandise have generally decreased since the inception of this case in 1987. The Department can confirm that current exports of the subject merchandise are indeed lower than pre-order exports. FAG's decrease in exports of the subject merchandise to the United States over the life of the orders indicate that FAG is unable to sell subject merchandise in the United States at pre-order volumes without dumping. Therefore, absent such evidence, we find no reason to deviate from our standard practice of using the margin we calculated in the original investigation.

In the final results of the 1995/96[8] and 1997/98 administrative reviews of these orders, the Department found that antidumping duties have been absorbed by foreign producers. With respect to the 1997/98 administrative reviews we made the following determinations[9]:

Ball bearings	Percent of sales
SKF	3.17
FAG	10.31
INA	9.14
Cylindrical Roller Bearings:	
SKF	33.52
Ball bearings	
FAG	24.59
Torrington Nadellage	0.26
INA	9.24
Spherical Plain Bearings:	
INA	3.53
SKF	20.31

Consistent with the statute and the Sunset Policy Bulletin, the Department will notify the Commission of its findings regarding such duty absorption for the Commission to consider in conducting a sunset review.

Additionally, the *Sunset Policy Bulletin* refers to the SAA at 885 and the House Report at 60 and provides that, where the Department has found duty absorption, the Department normally will provide to the Commission the higher of the margin that the Department otherwise would have reported or the most recent margin for that company, adjusted to account for the Department's findings on duty absorption. In this case, the margins adjusted to account for our duty absorption findings are less than the margins we would otherwise report to the Commission.

Therefore, the Department agrees with Torrington, MPB, and RBC concerning the margin likely to prevail if the order were to be revoked. We find that the dumping margins calculated in the original investigation are the only calculated rates that reflect the behavior of exporters without the discipline of the orders. Consistent with the *Sunset Policy Bulletin,* we determine that the margins we calculated in the original investigation are probative of the behavior of German producers and exporters of BBs, CRBs, and SPBs if the order were revoked. Therefore, we will report to the Commission the company-specific and ''all others'' rates from the original investigation contained in the Final Results of Review section of this notice.

Final Results of Review

As a result of these reviews, the Department finds that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping at the margins indicated below:

Manufacturer/ Exporter	Margin (percent)
Ball Bearings:	
SKF	132.25
FAG	70.41
INA	31.29
GMN	35.43
All Others	68.89
Cylindrical Roller Bearings:	
SKF	76.27
FAG	52.43
INA	52.43
All Others	55.65
Spherical Plain Bearings:	
SKF	118.98
FAG	74.88
All Others	114.52

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These five-year (''sunset'') reviews and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 28, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28776 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–DS–P

[8] See Final Results of Antidumping Duty Administrative Reviews, 62 FR 54043 (October 17, 1997) (1995–96).

[9] See Final Results of Antidumping Duty Administrative Reviews, 64 FR 35590 (July 1, 1999) (1997–98).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–485–801]

Final Results of Expedited Sunset Review: Ball Bearings From Romania

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Expedited Sunset Review: Ball Bearings from Romania.

SUMMARY: On April 1, 1999, the U.S. Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty order on ball bearings from Romania pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and adequate response filed on behalf of a domestic interested party and inadequate response from respondent interested parties in this review, the Department conducted an expedited sunset review. As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to recurrence of dumping at

the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Mark D. Young or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–3207 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 4, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for conducting sunset reviews are set forth in Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations''), and 19 CFR part 351 (1999) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Scope

The products covered by this order are ball bearings (''BBs'') and parts thereof from Romania. For a detailed description of the products covered by this order, including a compilation of all pertinent scope determinations, refer to the notice of final results of expedited sunset reviews on antifriction bearings from Japan, publishing concurrently with this notice.

History of the Order

On May 3, 1989, the Department issued a final determination of sales at less than fair value (''LTFV'') with respect to imports of BBs from Romania.[1] The antidumping duty order on BBs was issued by the Department on May 15, 1989, and the dumping margins that were found in the final determination of sales at LTFV were confirmed.[2] Since the imposition of this order, the Department has conducted several administrative reviews.[3] The order remains in effect for all manufacturers and exporters of the subject merchandise.

This review covers all producers and exporters of BBs from Romania.

Background

On April 1, 1999, the Department initiated a sunset review of the antidumping duty order on BBs from Romania pursuant to section 751(c) of the Act. By April 16,1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations,* we received notices of intent to participate from The Torrington Company (''Torrington'') and MPB Corporation (''MPB''), Roller Bearing Company of America (''RBC''), Link-Belt Bearing Division (''Link-Belt''), New Hampshire Ball Bearing, Inc. (''NHBB''), and NSK Corporation (''NSK''). Each of these parties claimed status as domestic interested parties on the basis that they are domestic producers, manufacturers, or wholesalers of BBs.

Within the deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i), on May 3, 1999, the Department received complete substantive responses from each of these domestic interested parties. In addition, Tehnoimportexport S.A. (''TIE'') notified the Department that it would not file a substantive response in the review of the BBs order. We received substantive comments from Torrington and MPB, RBC, NHBB, and NSK, on May 12, 1999, within the deadline. We did not receive a substantive response from Link-Belt.

On May 21, 1999, we informed the International Trade Commission (''Commission'') that, on the basis of inadequate response from respondent interested parties, we were conducting an expedited sunset review of this order consistent with 19 CFR 351.218(e)(1)(ii)(C)(2). (*See* Letter to Lynn Featherstone, Director, Office of Investigations from Jeffrey A. May, Director, Office of Policy.)

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). Therefore, on August 5, 1999, the Department determined that the sunset review of the antidumping duty order on BBs from Romania is extraordinarily complicated and extended the time limit for completion of the final results of this review until not later than October 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[4]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order. Pursuant to section 752(c)(3) of the Act, the Department shall provide to the Commission the magnitude of the margin likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, the parties' comments with respect to the continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Adequacy

As noted above, we notified the Commission that we intended to conduct an expedited review of this order. On June 10, 1999, we received comments on behalf of Torrington and MPB supporting our determination to conduct an expedited review. NHBB and NSK also submitted comments on whether an expedited sunset review was warranted. In both submissions, both parties assert that most of the domestic interested parties that submitted substantive responses are in favor of revocation of the Department's various antidumping duty orders on antifriction bearings. These parties also offered new argument regarding the likely effect of revocation of these orders.

The magnitude of domestic support for continuation or revocation of an order, however, does not enter into the Department's determination of adequacy of participation nor, for that matter, the Department's determination of likelihood. We made clear in our

[1] See Final Determination of Sales at Less Than Fair Value; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Romania, May 3, 1989 54 FR 18992.

[2] See Ball Bearings, Cylindrical Roller Bearings, and Spherical Plain Bearings and Parts Thereof From Romania; Antidumping Duty Order, May 15, 1989 54 FR 20900.

[3] See Ball Bearings, Cylindrical Roller Bearings, and Spherical Plain Bearings and Parts Thereof From Romania; Final Results of Antidumping Duty Administrative Review, 64 FR 35590 (July 1, 1999); 63 FR 33320 (June 18, 1998); 62 FR 54043 (October 17, 1997); 58 FR 39729 (July 26, 1993); 57 FR 28360 (June 24, 1992); and 56 FR 31692 (July 11, 1991).

[4] *See Tapered Roller Bearings, 4 Inches and Under From Japan, et. al.: Extension of Time Limit for Final Results of Five-Year Reviews,* 64 FR 42672 (August 5, 1999).

regulations that a complete substantive response from one domestic interested party, which we have received in this case from Torrington and MPB, RBC, NHBB, and NSK, would be considered adequate for purpose of continuing a sunset review (*see* section 351.218(e)(1)). Nowhere in the statute or legislative history is there reference to consideration of domestic industry support during the course of a sunset review (other than the statutory provision that if there is *no* domestic industry interest in continuation of the order, the Department will revoke the order automatically). In fact, the Senate Report (at S. Rep. No. 103–412, at 46 (1994)) makes clear that the purpose of adequacy determinations in sunset reviews is for the Department to determine whether to issue a determination based on the facts available without further fact-gathering. Further, the statute, at section 751(c)(1), specifies that the Department is to determine whether revocation of an order would be likely to lead to continuation or recurrence of dumping. Section 752(c) specifies that the Department is to consider the weighted-average dumping margins determined in the investigation and subsequent reviews, as well as the volume of imports of the subject merchandise for the period before and the period after the issuance of the order.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis (see section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping when (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* Section II.A.3).

In their substantive responses, Torrington, MPB, and RBC argue that revocation of the antidumping duty order on the subject merchandise would likely lead to the recurrence of dumping. They base this conclusion on the fact that imports declined significantly while dumping margins remained at de minimis levels. Torrington and MPB argue that the post-order volume of imports for complete unmounted BBs, which they assert is the only category for which statistics are available on a consistent basis, have declined significantly since the issuance of the order. They argue further that, since the post-order import volume was 83% lower than the pre-order volume, the Department should conclude that dumping is likely to recur if the order were revoked. In conclusion, Torrington and MPB assert that no ''good cause'' exists to consider other factors, such as sales below the cost of production.

NHBB and NSK assert that revocation of the order is not likely to result in continuation or recurrence of dumping. NHBB bases its assertion on the fact that dumping would undercut the U.S. domestic price structure, thus causing injury to the very industry of which foreign owners are a part. NSK claims that the margin of dumping would be no higher than the margin for TIE found in the most recent administrative review (*i.e.*, 0.02 percent).

In their rebuttal comments, Torrington and MPB assert that the Department should take into account the submitter's affiliation in its consideration of comments of various parties filing as domestic producers. Further, citing to Ball Bearings and Parts Thereof From Thailand; Final Results of Changed Circumstances Countervailing Duty Review and Revocation of Countervailing Duty Order, 61 FR 20799, 20800 (May 8, 1996), they argue that the Department has recognized that domestic producers who are affiliated with subject foreign producers and exporters do not have a common ''stake'' with the petitioner in the maintenance of the order. Additionally, Torrington and MPB argue that other parties' comments addressing issues other than margins and import volumes should not be considered unless such parties establish ''good cause'' to consider such additional factors, which, in this review, they have not done.

As discussed in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and the House Report at 63–64, existence of dumping margins after the order is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline of the order were removed. Therefore, as noted above, in determining whether revocation of an order is likely to lead to continuation or recurrence of dumping, the Department considers the margins determined in the investigation and subsequent administrative reviews and the volume of imports. Whatever relevance the arguments of NHBB and NSK concerning possible disincentives for producers and/or exporters to dump in the U.S. market might have had is mooted by the evidence that dumping continues and has continued over the life of the order.

As set forth in the Sunset Policy Bulletin (section II.A.3) and consistent with the SAA at 889–90 and the House Report at 63, where dumping was eliminated after the issuance of the order and import volumes from the subject merchandise declined significantly, the Department normally will determine that revocation of the antidumping duty order would be likely to lead to recurrence of dumping. Although dumping has been eliminated, shipments of the subject merchandise have declined dramatically. In addition, respondent interested parties waived participation in this review. Therefore, we determine that, consistent with section II.A.3 of the Sunset Policy Bulletin, dumping is likely to recur if the order were revoked. Because we have based this determination on the fact that import volumes of the subject merchandise declined significantly after the issuance of the order, we have not addressed the comments submitted by Torrington and MPB with respect to ''good cause'' nor have we addressed the arguments of other interested parties regarding the condition of the U.S. market.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that, consistent with the SAA and House Report, the Department normally will provide to the Commission a margin from the investigation because that is the only calculated rate that reflects the behavior of exporters without the discipline of an order in place. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (See section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the

use of a more recently calculated margin, where appropriate, and consideration of duty-absorption determinations. (See sections II.B.2 and 3 of the Sunset Policy Bulletin.)

In their substantive responses, Torrington, MPB, and RBC argue that the margins that are likely to prevail should the order be revoked are the dumping margins found for each company in the original investigation (as opposed to margins calculated in succeeding annual administrative reviews), including margins based on best information available, except where the most current margin, increased by the Department's duty-absorption determination, exceeds the original investigation margin.

NHBB argues that the dumping margins likely to prevail if the order were revoked are *de minimis*. NHBB goes on to argue that it would be illogical for companies with significant U.S. bearings investments to undercut that investment by dumping. In addition, NHBB argues that the Department should not report margins from the original investigation. In support of this argument, NHBB notes that the SAA provides that, in certain instances, it is more appropriate to rely on a more recently calculated margin. NHBB asserts that one such instance is where, as in the bearings cases, dumping margins have declined over the life of the order and imports have remained steady or increased. Additionally, NHBB argues that, because the structure of the U.S. domestic industry that exists today bears little resemblance to the industry when the antidumping duty order was imposed in 1989, the rates from the original investigation are inappropriate as indicators of the rates that would be found upon revocation. Finally, NHBB argues that, in light of changes in the methodology used to calculated antidumping duty margins introduced by the Uruguay Round, use of margins calculated by the Department prior to the URAA would be unfair and would be contrary to the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

Similarly, NSK argues that the margins likely to prevail are *de minimis*. As support, NSK argues that, were the order not in existence, the Department would apply the average-to-average methodology used in an investigation as opposed to the transaction-to-average methodology common to administrative reviews to measure the extent of any dumping. In such a case, NSK believes any margin found would be below the two percent *de minimis* level applicable in investigations. NSK argues further that, the Department's unorthodox approach during the original investigation, plus the liberal use of best information available, skewed the results of the original investigation seriously, rendering those results inappropriate indicators of the magnitude of the margin likely to prevail if the order were revoked. Finally, NSK also argues that dumping margins have declined over time while, at the same time, importations have remained at or around 20 percent of the U.S. market. As support, it cites to The Economic Effects of Antidumping and Countervailing Duty Orders and Suspension Agreements, USITC Pub. 2900, Inv. No. 332–334, at 14–26—14–31 (June 1995).

In their rebuttal comments, Torrington and MPB argue that other parties' comments ignore the Department's stated policies regarding the selection of margins likely to prevail. Citing to the Sunset Policy Bulletin, Torrington and MPB argue that the Department's policies are clear—normal reliance on the margins from the investigation as the only margins that reflect the behavior of exporters without the discipline of the order. Torrington and MPB argue that the two-percent *de minimis* standard is not applicable to sunset reviews. Further, there is no authority which would authorize or justify the rejection of the investigation rate on the basis of the particular methodology used at the time of the investigation. Additionally, with respect to claims that more recent margins should be used based on declining margins accompanied by steady or increasing imports, Torrington and MPB argue that it is the responsibility of such claimants to provide information regarding companies' relative market share. Since no such information was provided, Torrington and MPB argue that the Department should not accept these assertions.

We agree with Torrington, MPB, and RBC that, normally, we will provide a margin from the original investigation because that is the rate that reflects the behavior of exporters absent the discipline of the order. As noted above, exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty-absorption determinations.

In the Sunset Policy Bulletin we indicated that, consistent with the SAA at 889–90 and the House Report at 63, we may determine, in cases where declining (or no) dumping margins are accompanied by steady or increasing imports, that a more recently calculated rate reflects that companies do not have to dump to maintain market share in the United States and, therefore, that dumping is less likely to continue or recur if the order was revoked. Alternatively, if a company chooses to increase dumping in order to increase or maintain market share, the Department may provide the Commission with a more recently calculated margin for that company. The Sunset Policy Bulletin provides that we will entertain such considerations in response to argument from an interested party. Further, we noted that, in determining whether a more recently calculated margin is probative of an exporter's behavior absent the discipline of an order, the Department normally will consider the company's relative market share, with such information to be provided by the parties. It is clear, therefore, that in determining whether a more recently calculated margin is probative of the behavior of exporters were the order revoked, the Department considers company-specific exports and company-specific margins. Additionally, although we expressed a clear preference for market-share information, in past sunset reviews, where market-share information was not available, we relied on changes in import volumes between the periods before and after the issuance of the order. *See, e.g.*, Final Results of Expedited Sunset Review: Stainless Steel Plate from Sweden, 63 FR 67658 (December 8, 1998), and Final Results of Expedited Sunset Reviews: Certain Iron Construction Castings From Brazil, Canada, and the People's Republic of China, 64 FR 30310 (June 7, 1999).

In sunset reviews, although we make likelihood determinations on an order-wide basis, we report company-specific margins to the Commission. Therefore, it is appropriate that our determinations regarding the magnitude of the margin likely to prevail be based on company-specific information. Generic arguments that margins decreased over the life of the order while, at the same time, exporters' share of the U.S. market remained constant do not address the question of whether any particular company decreased its margin of dumping while at the same time maintaining or increasing market share. In fact, such generic argument may disguise company-specific behavior demonstrating increased dumping coupled with increased market share.

Our review of import statistics, provided by Torrington and MPB, covering BBs from Romania demonstrates that imports have declined significantly since 1988, dropping from 13.5 million units to 0.7 million units. Although imports increased to 2.5 million units in 1997,

they remain significantly below pre-order volumes. While we acknowledge that we may select a more recently calculated margin when declining (or no) margins are accompanied by steady or increasing imports, we do not agree that the facts of this case support such a determination. Although dumping margins, in the instant case, have remained at levels below *de minimis* levels from 1990 through 1998, the record reflects a dramatic decline in import levels. As mentioned above, the Department normally will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where there is a significant decline in import levels. Therefore, we find that the use of a more recently calculated margin in its report to the Commission would be inappropriate. Rather, we find that the margins from the original investigation reflect the behavior of exporters absent the discipline of the order. Therefore, consistent with the Sunset Policy Bulletin, we will report to the Commission the margins indicated in the Final Results of the Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to recurrence of dumping at the margins indicated below:

Manufacturer/ Exporter	Margin (percent)
Ball Bearings:	
TIE	39.61
All Others	39.61

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 28, 1999.

Richard Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28777 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–054]

Final Results of Expedited Sunset Review: Tapered Roller Bearings, Four Inches or Less, from Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset review: Tapered roller bearings, four inches or less, from Japan.

SUMMARY: On April 1, 1999, the Department of Commerce (''the Department'') initiated a sunset review of the antidumping finding on tapered roller bearings from Japan (64 FR 15727) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and adequate substantive comments filed on behalf of domestic interested parties and inadequate response (in this case, a waiver) from respondent interested parties, the Department determined to conduct an expedited review. As a result of this review, the Department finds that revocation of the antidumping finding would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Darla D. Brown or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3207 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 4, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*'') and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin,* 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope

The merchandise subject to this antidumping finding is tapered roller bearings (''TRBs''), four inches or less in outside diameter when assembled, including inner race or cone assemblies and outer races or cups, sold either as a unit or separately, from Japan. The scope of the finding was clarified in 1981. At that time, the Department ruled that TRBs that are greater than four inches in outer diameter were outside the scope. Moreover, the Department found that unfinished TRB components (cups, cones, and retainers) that had been forged and rough machined but not finished were outside the scope.[1] The subject merchandise is currently classifiable under HTS items 8482.20.00 and 8482.99.30. While the HTS item numbers are provided for convenience and customs purposes, the written description remains dispositive.

History of the Finding

On September 6, 1974, the Treasury Department (''Treasury'') published its antidumping determination of sales at less than fair value (''LTFV'') (39 FR 32337). On August 18, 1976, Treasury published its Final Affirmative Antidumping Duty Determination, T.D. 76–227 (41 FR 34974). Treasury did not publish any dumping margins in its original finding.

Over the life of the finding, the Department has conducted several administrative reviews.[2] This sunset

[1] *See Tapered Roller Bearings and Certain Components Thereof from Japan; Clarification of Scope of Antidumping Finding,* 46 FR 40350 (August 10, 1981).

[2] *See Tapered Roller Bearings and Certain Components Thereof from Japan; Final Results of Administrative Review and Revocation in Part of Antidumping Finding,* 47 FR 25757 (June 15, 1982); *Tapered Roller Bearings and Certain Components Thereof from Japan; Final Results of Administrative Review of Antidumping Finding,* 49 FR 8976 (March 9, 1984); *Tapered Roller Bearings Four Inches or Less in Outside Diameter from Japan; Final Results of Antidumping Duty Administrative Review,* 55 FR 22369 (June 1, 1990); *Tapered Roller Bearings Four Inches or Less in Outside Diameter from Japan; Final Results of Antidumping Duty Administrative Review,* 55 FR 38720 (September 20, 1990); *Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Certain Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Review,* 56 FR 26054 (June 6, 1991); as amended, *Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Certain Components Thereof, from Japan; Amendment to Final Results of Antidumping Finding Administrative Review,* 56 FR 31113 (July 9, 1991); *Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Certain Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Review,* 56 FR 65228 (December 16, 1991); *Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Certain Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Review,* 57 FR

Continued

review covers imports from all known Japanese producers/exporters, except NTN Toyo Bearing Company, Ltd. and NTN Bearing Corporation of America, for which the finding was revoked.[3]

The Department made a duty absorption finding in the final results of the 1995–96 administrative review.[4]

Background

On April 1, 1999, the Department initiated a sunset review of the antidumping finding on TRBs, four inches and under, from Japan (64 FR 15727), pursuant to section 751(c) of the Act. The Department received Notices of Intent to Participate on behalf of the Timken Company (''Timken'') and the Torrington Company (''Torrington''), American NTN Bearing Manufacturing Corporation (''ANBM'') and the NTN Bower Corporation, and Koyo Corporation of the U.S.A.—Manufacturing Division (''KCUM'') on April 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. We received complete substantive responses on behalf of Timken, ANBM and NTN Bower, and KCUM on May 3, 1999, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i).

Timken and Torrington claimed interested party status under 19 U.S.C. 1677(9)(C) as U.S. manufacturers of TRBs. Timken stated that it filed the original petition that led to the antidumping finding. In addition, Timken stated that it has participated in all administrative reviews of the finding. ANBM and NTN Bower also claimed interested party status under 19 U.S.C. 1677(9)(C) as U.S. manufacturers of a domestic like product. Additionally, ANBM and NTN Bower stated that they are related to a foreign producer/exporter and are importers of subject merchandise. KCUM also claimed interested party status under 19 U.S.C. 1677(9)(C) as a U.S. manufacturer of a domestic like product. KCUM stated that it is a division of Koyo Corporation of U.S.A., a wholly-owned subsidiary of Koyo Seiko Co., Ltd., a producer in Japan of subject merchandise and an importer of subject merchandise. Moreover, KCUM stated that it participated in all administrative reviews by the Department.

On May 3, 1999, the Department received a waiver from Koyo Seiko Corp., Ltd. As a result, pursuant to 19 CFR 351.218(e)(1)(ii)(C), the Department determined to conduct an expedited, 120-day, review of this finding.

On May 12, 1999, the Department received rebuttal comments from ANBM and NTN Bower and Timken.[5]

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). On August 5, 1999, the Department determined that the sunset review of the antidumping duty finding on TRBs, four inches and under, from Japan is extraordinarily complicated, and extended the time limit for completion of the final results of this review until not later than October 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[6]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping finding would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping finding, and shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin of dumping likely to prevail if the finding is revoked.

The Department's determinations concerning continuation or recurrence of dumping and the magnitude of the margin are discussed below. In addition, interested parties' comments with respect to continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

4975 (February 11, 1992); as amended, *Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Certain Components Thereof, from Japan; Amended Final Results of Antidumping Duty Administrative Review*, 57 FR 9105 (March 16, 1992); *Final Results of Antidumping Duty Administrative Reviews; Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan*, 58 FR 64720 (December 9, 1993); as amended, *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan*, 59 FR 2594 (January 18, 1994); *Tapered Roller Bearings, Four Inches or Less in Diameter, and Components Thereof, from Japan; Final Results and Partial Termination of Antidumping Duty Administrative Review*, 59 FR 56035 (November 10, 1994); *Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Affirmation of the Results of Redetermination Pursuant to Court Remand*, 60 FR 3624 (January 18, 1995); as amended, *Tapered Roller Bearings, Four Inches or Less In Outside Diameter, and Components Thereof, from Japan; Amendment to Affirmation of the Results of Redetermination Pursuant to Court Remand*, 60 FR 45398 (August 31, 1995); *Tapered Roller Bearings, Four Inches or Less In Outside Diameter, and Components Thereof, from Japan; Amendment to the Final Results of Review*, 60 FR 62386 (December 6, 1995); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Finding*, 61 FR 57629 (November 7, 1996); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825 (March 13, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 2558 (January 15, 1998); as amended, *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 13391 (March 19, 1998); *Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan, and Tapered Roller Bearings, Finished and Unfinished, and Parts Thereof, from Japan: Final Court Decisions and Amended Final Results of Antidumping Duty Administrative Reviews*, 63 FR 17815 (April 10, 1998); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 63 FR 20585 (April 27, 1998); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 63860 (November 17, 1998); *Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan: Final Court Decisions and Amended Final Results of Antidumping Duty Administrative Reviews*, 64 FR 15729 (April 1, 1999).

[3] *See Tapered Roller Bearings and Certain Components Thereof from Japan; Final Results of Administrative Review and Revocation in Part of Antidumping Finding*, 47 FR 25757 (June 15, 1982).

[4] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews*, 63 FR 2558 (January 15, 1998).

[5] On May 6, 1999, the Department received and granted a request from Timken for a two working-day extension of the deadline for filing rebuttal comments in this sunset review. This extension was granted for all participants eligible to file rebuttal comments in this review. The deadline for filing rebuttals to the substantive comments therefore became May 12, 1999.

[6] *See Tapered Roller Bearings, 4 Inches and Under From Japan, et al.; Extension of Time Limit for Final Results of Five-Year Reviews*, 64 FR 42672 (August 5, 1999).

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its *Sunset Policy Bulletin*, the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.3). In addition, the Department indicated that normally it will determine that revocation of a antidumping finding is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the finding, (b) imports of the subject merchandise ceased after the issuance of the finding, or (c) dumping was eliminated after the issuance of the finding and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of a finding is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In this instant review, the Department received a waiver of participation from Koyo and did not receive a substantive response from any other respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations,* this constitutes a waiver of participation.

In its substantive response, Timken argues that revocation of the finding on TRBs from Japan would be likely to lead to continuation or recurrence of dumping due to the fact that there has been continuous dumping for more than twenty-five years of significant import volumes of subject TRBs and Japanese producers have continued to export significant quantities of subject merchandise to the United States (*see* May 3, 1999, substantive response of Timken at 7). Timken further argues that the Asian financial crisis has had the effect of limiting the market for TRBs in Japan and the rest of Asia, leaving Japanese TRB producers with excess capacity and the need to export more than they have in the past. Timken maintains that the result has been a forty percent increase of exports of TRBs to the U.S. from 1997 to 1998 (*see id.* at 10). Moreover, Timken argues that Japanese selling patterns in Canada and Mexico indicate that absent the finding, Japanese producers would increase exports to the U.S. by lowering prices. Timken concludes that since the Japanese are presently selling in the U.S. at LTFV, even lower prices would mean greater levels of dumping (*see id.* at 11). In sum, Timken argues that the consistent history of dumping with the discipline of the finding in place, together with the impact of the Asian financial crisis and Japanese sales behavior in other countries demonstrate that dumping would continue or recur if the finding were revoked.

In their substantive response, ANBM and NTN Bower (collectively, ''NTN'') argue that revocation of the finding would have a minimal, if any, impact upon the U.S. market for the following reasons. First, they maintain that producers in the subject country have invested in production facilities in the U.S. since the imposition of the finding, thereby decreasing the need to import subject merchandise from Japan. They further claim that imports from non-subject countries will continue to increase, therefore reducing the competitive threat from the subject country to the U.S. market. Finally, they argue that the U.S. bearing industry is financially secure (*see* May 3, 1999, substantive response of NTN at 3).

KCUM, in its substantive response, argues that revocation of the antidumping finding would not have much of an effect on the U.S. market, prices, or the industry for two reasons. First, KCUM maintains that the U.S. market and the role of imports in the market have changed substantially over the past twenty years, and foreign producers whose imports have been subject to the finding have moved substantial production facilities to the U.S. Therefore, KCUM argues, if the finding is revoked, KCUM will continue to produce significant quantities of bearings in the U.S. Second, KCUM argues that foreign producers subject to the finding have much smaller market shares with limited ability to influence prices in the market. The conclusion KCUM draws is that the TRB market in the U.S. is subject to conditions that affect prices to which the existence or revocation of the antidumping finding is irrelevant (*see* May 3, 1999, substantive response of KCUM at 4–5).

In its rebuttal comments, Timken states that the existence of manufacturing facilities in the U.S. is not relevant to the likelihood determination because despite the fact that such facilities have been in operation for many years, dumping of subject merchandise from Japan in substantial amounts has continued (*see* May 12, 1999, rebuttal of Timken at 3–4). Timken further argues that any significant effect that onshore production was going to have on dumped imports would have demonstrated itself by now (*see id.* at 5). Moreover, Timken rebuts NTN's assertion that revocation will not have an effect because non-subject imports of TRBs will increase. Timken argues that there is no evidence that, should the finding be revoked, NTN or any other Japanese producer would raise its import prices. Timken maintains that since Japanese producers sell at current LTFV prices or lower, there is little likelihood that foreign producers of non-subject merchandise would be able to increase their market share (*see id.* at 5–6). Finally, Timken rebuts KCUM's argument that the U.S. market and the role of imports in the market have changed substantially over the past twenty years. Timken maintains that since KCUM does not affirm that market conditions will change in any significant way, on the surface, KCUM's assertion supports the proposition that dumping will continue if the finding were revoked because dumping occurs at present (*see id.* at 4–5).

NTN, in its rebuttal, argues that Timken relies heavily on the assumption that the Asian economic situation will continue as it has for the foreseeable future. NTN, however, states that more recent economic trends indicate that the Japanese, and Asian economies in general, are on the verge of recovery (*see* May 12, 1999, rebuttal of NTN at 1–2). Finally, NTN maintains that Timken also heavily relies on the duty absorption rates in arguing likely dumping levels. However, NTN points out that the rates cited by Timken, as well as the finding of duty absorption itself, are the subject of litigation before the Court of International Trade (see id. at 1–2).

The Department agrees, based on an examination of the final results of administrative reviews, that dumping margins above *de minimis* levels have continued throughout the life of the finding for many Japanese producers/exporters.[7] As discussed in section II.A.3 of the *Sunset Policy Bulletin,* the SAA at 890, and the House Report at 63–64, if companies continue dumping with the discipline of a finding in place, the Department may reasonably infer that dumping would continue if the

[7] *See* footnote 2.

discipline were removed. The Department also agrees that following the imposition of the finding, imports of the subject merchandise have continued throughout the life. Since that time, imports of TRBs from Japan have fluctuated greatly, showing no overall trend.[8]

Based on this analysis, the Department finds that the existence of dumping margins after the issuance of the finding is highly probative of the likelihood of continuation or recurrence of dumping. A deposit rate above a *de minimis* level continues in effect for exports of the subject merchandise for at least one known Japan producer/exporter. Therefore, given that dumping has continued over the life of the finding and respondent interested parties waived their right to participate in this review before the Department, we determine that dumping is likely to continue or recur if the finding were revoked. Whatever relevance the arguments of those parties in support of revocation might have had concerning possible disincentives for producers and/or exporters to dump in the U.S. market, those arguments are mooted by the evidence that dumping continues and has continued over the life of the order.

Magnitude of the Margin

In the *Sunset Policy Bulletin,* the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the finding was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin.*) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin.*) Further, the *Sunset Policy Bulletin* states that in a sunset review of an antidumping finding where the original investigation was conducted by Treasury and no company-specific margin or ''all others'' rate was included in the Treasury finding, the Department normally will provide to the Commission the company-specific margin from the first administrative review published by the Department in the **Federal Register**. For any company not covered in the first administrative review, the Department normally will provide to the Commission, as the margin for any new company not reviewed by Treasury, the first ''new shipper'' rate established by the Department for that order (*see* section II.B.1).

As noted above, Treasury, in its original finding, did not publish any dumping margins. Therefore, consistent with section II.B.1 of the *Sunset Policy Bulletin,* the Department normally will select the company-specific margins from the first final results of administrative review conducted by the Department as the magnitude of the margin of dumping likely to prevail if the finding is revoked. Exceptions to this rule include the use of a more recently calculated rate, where appropriate, and consideration of duty absorption findings.

In its substantive response, Timken recommends that the Department report the following dumping margins to the Commission: 20.56 percent for Koyo Seiko, 17.42 percent for NSK, and the new shipper's rate of 18.07 percent for all companies not reviewed in the first review period (*see* May 3, 1999, substantive response of Timken at 14). Moreover, Timken suggests that the Department deviate from its general practice of selecting the margins from the original investigation due to the fact that two major Japanese producers were found to be absorbing duties (*see id.* at 15–16). Timken also points out that in the *Sunset Policy Bulletin* the Department stated that where it has found company-specific duty absorption, it will report the greater of the margin it would normally report or the most recent margin for that company adjusted to account for the Department's findings on duty absorption (*see id.* at 15 and *Sunset Policy Bulletin*). In sum, Timken recommends that if the Department conducts an expedited review, it should rely on the evidence from the 1995–96 administrative review and forward the margins, as adjusted for duty absorption, for the companies from this review (*see id.* at 16).

NTN, in its substantive response, maintains that the dumping margin likely to prevail if the order is revoked would be 0.00 percent. However, NTN alternatively requests that the Department employ margins that were determined during the more recent administrative reviews of the subject merchandise (*see* May 3, 1999, substantive response of NTN at 3).

In its substantive response, KCUM states that it cannot predict the likely effect of revocation of the finding since the existence of the finding does not have much of an effect on the prices at which bearings are sold in the United States, and, hence, on the margins generated on those sales (*see* May 3, 1999, substantive response of KCUM at 5). Moreover, KCUM argues that fluctuations in the exchange rate between the dollar and the Japanese yen have a significant impact on dumping margins (*see id.* at 6). They argue that the results of past administrative reviews reveal that antidumping margins tend to increase in periods in which the yen appreciates against the dollar and vice versa. As a result, KCUM argues, the margins that would prevail if the finding were revoked cannot be determined because they are dependent on an entirely exogenous factor (*see id.* at 6). In any case, KCUM strenuously objects to the use of the margins determined in the first administrative review conducted by the Department, arguing that the finding is hopelessly obsolete and cannot serve as a realistic indicator of the market and pricing conditions that would exist today if the finding were revoked (*see id.* at 6). Therefore, KCUM concludes that the Department should use the results of more recent administrative reviews when determining the margins that would exist for Koyo (*see id.* at 7).

Because no information is available regarding the magnitude of the margins calculated by Treasury, the Department normally would find that the margins calculated in its first administrative review are probative of the behavior of exporters absent the discipline of the order. Although both NTN and KCUM suggest that margins from the more recent administrative reviews are more appropriate than margins from the first administrative review, they merely cite to the age of such margins. They do not demonstrate, based on a pattern of decreasing margins coupled with steady or increasing imports, that the more recent margins are probative of the behavior of exporters absent the discipline of the order. Therefore, the Department finds that the margins from the first administrative review are probative of the behavior of Japanese producers/exporters of subject merchandise absent the disciple of the order.

As noted above, the Department determined in the final results of the 1995–96 administrative review that two Japanese producers/exporters, Koyo

[8] The Department bases this determination on information submitted by Timken in its May 3, 1999, submission, as well as U.S. IM146 Reports, U.S. Department of Commerce statistics, U.S. Department of Treasury statistics, and information obtained from the U.S. International Trade Commission.

Seiko and NSK, were absorbing duties.[9] Consistent with the statute and the *Sunset Policy Bulletin*, the Department will notify the Commission of its findings regarding duty absorption.

Additionally, the *Sunset Policy Bulletin* refers to the SAA at 885 and the House Report at 60, and provides that where the Department has found duty absorption, the Department normally will report to the Commission the higher of the margin that the Department otherwise would have reported or the most recent margin for that company, adjusted to account for the Department's findings on duty absorption.

In this case, the margins adjusted to account for the Department's duty absorption findings are less than the margins we would otherwise report to the Commission. As such, the Department will report to the Commission the margins from the first administrative review as contained in the *Final Results of Review* section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping duty order would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/Exporter	Margin (percent)
Koyo Seiko Co.	20.56
Nippon Seiko K.K. Ltd. (NSK)	17.42
Auto Dynamics International of Japan	18.07
Caterpillar Mitsubishi, Ltd.	16.92
Deer Island Industries, Ltd.	9.80
Nachi Fujikoshi Corp./ Kanematsu-Gosho, Ltd./ Nachi America	8.30
Nachi Fujikoshi Corp./ Kanematsu/Gosho, Ltd./ Nachi Western	18.07
Nachi Fujikoshi Corp./ Kanematsu/Gosho, Ltd./ all other purchasers	8.30
Kobe Steel	18.07
Komatsu, Ltd.	18.07
Kubota, Ltd.	18.07
Maekawa Bearing Manufacturing Co., Ltd.	0.71
Maekawa Bearing Manufacturing Co., Ltd./Daido Enterprising Co., Ltd.	16.92
Maekawa Bearing Manufacturing Co., Ltd./Hajime Industries, Ltd.	16.92
Maekawa Bearing Manufacturing Co., Ltd./Taisei Industries, Ltd.	16.92
Maekawa Bearing Manufacturing Co., Ltd./Schneider Engineering, Ltd.	18.07
Marubeni Corp.	18.07
Mitsubishi Corp.	16.92
Nachi Fujikoshi Corp.	18.07
Naniwa Kogyo Co., Ltd.	18.07
Nichimen Co.	16.92
Nissho-Iwai Co., Ltd.	16.92
Sumitomo Shoji Kaisha	3.40
Sumitomo Yale Co., Ltd.	16.92
Tatsumiya Kogyo Co., Ltd.	18.07
Toyo Kogyo Co., Ltd.	3.40
Toyosha Co., Ltd.	16.92
United Trading Co., Ltd.	9.80
All Others	18.07

Third country resellers	Margin (percent)
Federal Mogul Canada, Ltd.	18.07
Flanders Enterprises, Ltd.	16.92
John Deere Welland Works (Canada)	18.07
Nachi Canada, Ltd.	18.07
Superior Bearing Industrial Supplies, Ltd. (Canada)	18.07

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 28, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28778 Filed 11–3–99; 8:45 am]

BILLING CODE 3510–DS–P

[9] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Final Results of Antidumping Duty Administrative Reviews,* 63 FR 2558 (January 15, 1998).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–801]

Final Results of Expedited Sunset Reviews: Antifriction Bearings From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Expedited Sunset Reviews: Antifriction Bearings from France.

SUMMARY: On April 1, 1999, the U.S. Department of Commerce (''the Department'') initiated sunset reviews of the antidumping duty orders on ball bearings, cylindrical roller bearings, and spherical plain bearings (collectively, ''antifriction bearings'') from France pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and an adequate response filed on behalf of a domestic interested party and inadequate responses from respondent interested parties in each of these reviews, the Department conducted expedited sunset reviews. As a result of these reviews, the Department finds that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping at the levels indicated in the Final Result of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–5050 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 4, 1999.

Statute and Regulations

These reviews were conducted pursuant to sections 751(c) and 752 of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations''), and 19 CFR Part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Scope

The products covered by these orders are antifriction bearings (''AFBs'') from France, which include ball bearings (''BBs''), cylindrical roller bearings (''CRBs''), and spherical plain bearings (''SPBs'') and parts thereof from France. For a detailed description of the products covered by these orders,

including a compilation of all pertinent scope determinations, refer to the notice of final results of expedited sunset reviews on AFBs from Japan, publishing concurrently with this notice.

History of the Orders

On May 3, 1989, the Department issued a final determination of sales at less than fair value on imports of AFB's from France (54 FR 19092). On May 15, 1989, the Department published in the **Federal Register** (54 FR 20902) the antidumping duty orders on the subject merchandise.

As part of these antidumping duty orders, the Department established a estimated weighted-average dumping margin for three respondents, Compagnie d'Applications Mecaniques S.A. (SKF), Societe Nouvelle de Roulements (SNR), and Roulements S.A. (INA), and an ''all others'' rate.[1] There have been several administrative reviews of these orders.[2] In the 1995–1996, 1997–1998 administrative reviews, the Department found that antidumping duties were being absorbed.[3]

The antidumping duty orders remain in effect for all French producers and exporters of AFBs from France.

Background

On April 1, 1999, the Department initiated sunset reviews of the antidumping duty orders on AFBs from France pursuant to section 751(c) of the Act. By April 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulation,* we received notices of intent to participate from the following parties: Link-Belt Bearing Division (''Link-Belt''); The Torrington Company (''Torrington'') and MPB Corporation (''MPB''); Roller Bearing Company of America, Inc. (''RBC''); New Hampshire Ball Bearings, Inc. (''NHBB'')[4]; and NSK Corporation (''NSK''). Each of these parties claimed status as domestic interested parties on the basis that they are a domestic producer, manufacturer, or wholesaler of one or more of the products subject to these orders.[5]

Within the deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i), on May 3, 1999, the Department received complete substantive responses from each of these domestic interested parties, with the exception of Link-Belt. In addition, SKF France and Sarma (collectively ''SKF'') notified the Department that they would not file a substantive response in the sunset reviews of the AFB orders. We received rebuttal comments from Torrington, MPB, and NSK on May 12, 1999, within the deadline.

On May 21, 1999, we informed the International Trade Commission (''Commission'') that, on the basis of inadequate responses from respondent interested parties, we were conducting expedited sunset reviews of these orders consistent with 19 CFR 351.218(e)(1)(ii)(C)(2). (*See* Letter to Lynn Featherstone, Director, Office of Investigations from Jeffrey A. May, Director, Office of Policy.)

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (i.e., an order in effect on January 1, 1995). Therefore, on August 5, 1999, the Department determined that the sunset reviews of the antidumping duty orders on AFBs from France are extraordinarily complicated and extended the time limit for completion of the final results of these reviews until not later than October 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[6]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted these reviews to determine whether revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and import volume of the subject merchandise for the period before the issuance of the antidumping duty order and the period after the issuance of the antidumping duty order. Pursuant to section 752(c)(3) of the Act, the Department shall provide to the Commission the magnitude of the margin likely to prevail if the order is revoked.

The Department's determinations concerning adequacy, continuation or recurrence of dumping, and magnitude of the margin are discussed below. In addition, the parties' comments with respect to adequacy, the continuation or recurrence of dumping, and the magnitude of the margin are addressed in the respective sections below.

Adequacy

As noted above, we notified the Commission that we intended to conduct expedited reviews of these orders. On June 10, 1999, we received comments on behalf of MPB and Torrington, supporting our determination to conduct expedited

[1] In the Antidumping Duty Orders of AFBs from France, dumping margins for French producers and exporters of BBs, CRBs, and SPBs ranged from 11.03 percent to 66.42 percent.

[2] 1. *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France; Final Results of Antidumping Duty Administrative Review,* 56 FR 31748 (July 11, 1991). 2. *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France; et al.; Final Results of Antidumping Duty Administrative Review,* 57 FR 28360 (June 24, 1992). 3. *Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order,* 58 FR 39729 (July 26, 1993). 4. *Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Order,* 60 FR 10900 (February 28, 1995). 5. *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 61 FR 66472 (December 17, 1996), as corrected, *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews,* 62 FR 149 (January 2, 1997). 6. *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 62 FR 2081 (January 15, 1997). 7. *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 62 FR 54043 (October 17, 1997). 8. *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 63 FR 33320 (June 18, 1998). 9. *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Romania, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 64 FR 35590 (July 1, 1999)

[3] *See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore; Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 62 FR 54043 (October 17, 1997), *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore; Sweden and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews,* 62 FR 61963 (November 20, 1997), *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews,* 64 FR 35590 (July 1, 1999).

[4] NHBB states that it is affliated with the following respondent producers, exporters, and importers: Minebea Co., Ltd., NMB Singapore Ltd., Pelmec Industries (Pte.) Ltd., and NMB Corporation.

[5] Torrington, RBC, and NHBB filed with respect to BBs, CRBs, and SPBs. Link-Belt filed with respect to BBs and CRBs. MPB filed with respect to BBs and CRBs. NSK filed with respect to BBs only.

[6] *See Tapered Roller Bearings, 4 Inches and Under From Japan, et. al.: Extension of Time Limit for Final Results of Five-Year Reviews,* 64 FR 42672 (August 5, 1999).

reviews.[7] On June 10, 1999, NHBB and NSK Corporation also submitted comments on whether expedited sunsets review were warranted. In their submissions, NHBB and NSK assert that most of the domestic interested parties that submitted substantive responses favor revocation of the various orders on antifriction bearings. These parties also offered new argument regarding the likely effect of revocation of the orders.

The magnitude of domestic support for continuation or revocation of an order, however, is not a consideration in the Department's determination of adequacy of participation nor, for that matter, the Department's determination of likelihood. The Department made clear in its regulations that a complete substantive response from one domestic interested party would be considered adequate for purpose of continuing a sunset review (see section 351.218(e)(1)). Nowhere in the statute or legislative history is there reference to consideration of domestic industry support during the course of a sunset review (other than the statutory provision that, if there is *no* domestic industry interest in continuation of the order, the Department will revoke the order automatically). In fact, the Senate Report (at 46) makes clear that the purpose of adequacy determinations in sunset reviews is for the Department to determine whether to issue a determination based on the facts available without further fact-gathering. Further, the statute, at section 751(c)(1), specifies that the Department is to determine whether revocation of an order would be likely to lead to continuation or recurrence of dumping. Section 752(c) specifies that the Department is to consider the weighted-average dumping margins determined in the investigation and subsequent reviews, as well as the volume of imports of the subject merchandise for the period before and the period after the issuance of the order.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt.1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the basis for likelihood determinations. In its Sunset Policy Bulletin, the Department indicates that determinations of likelihood will be made on an order-wide basis (*see* section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (see section II.A.3).

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant review, the Department did not receive a response from any respondent interested party. Pursuant to section 351.218(d)(2)(iii) of the *Sunset Regulations,* this constitutes a waiver of participation.

In their substantive responses, Torrington, MPB, and RBC argue that revocation of the antidumping duty orders on the subject merchandise would be likely to lead to continuation of dumping. All three point out that, because dumping continued at levels above *de minimis* after the issuance of the orders, therefore, a consideration of import volumes is not necessary.

Nonetheless, using pre-and post-order import statistics for complete unmounted BBs, which Torrington and MPB assert is the only product category for which full time series data are available on a consistent basis, Torrington and MPB argue that post-order volumes are significantly lower than pre-order volumes. Torrington and MPB also assert that the same decline is evident from slightly aggregated value data covering CRBs. Based on the continued existence of dumping margins and the declining trend in imports after the imposition of the orders, Torrington and MPB assert that no ''good cause'' exists to consider other factors. However, in this regard, Torrington and MPB observe that, in each administrative review, the Department has found French producers selling below the cost of production.

NHBB argues that, given the ''internationalization of operations'' and the large percentage of foreign ownership of U.S. based companies, dumping would not be likely if the orders were revoked because any such dumping would undercut the U.S. domestic price structure, thus causing injury to the very industry of which foreign owners are a part. In addition, NHBB argues that the downward trend in the margins coupled with the change in the Department's margin-calculation methodology, brought about by the URAA, results in margins that are *de minimis.* NHBB asserts that dumping margins have declined significantly and trade data generally show that import volumes have not declined since the time of the investigations. For these reasons, NHBB claims that the decline in dumping margins and imports show that French producers do not need to dump to maintain U.S. market share. Therefore, it concludes, revocation of the orders will not likely lead to dumping.

NSK also argues that dumping margins have declined significantly and that imports have declined since the issuance of the antidumping duty orders. NSK explains that the fact that dumping margins have declined and imports remain at or around 20 percent of market share demonstrates that foreign companies do not have to dump if the orders were revoked. NSK adds that other factors for the Department's consideration in support of revocation of these orders include the lack of industry support and a change in the U.S. bearings industry.

In their rebuttal comments, Torrington and MPB assert that the Department should take into account the submitter's affiliation in its consideration of comments of various parties filing as domestic producers. Further, citing to Ball Bearings and Parts Thereof From Thailand; Final Results of Changed Circumstances Countervailing Duty Review and Revocation of Countervailing Duty Order, 61 FR 20799, 20800 (May 8, 1996), they argue that the Department has recognized that domestic producers who are affiliated with subject foreign producers and exporters do not have a common ''stake'' with the petitioner in the maintenance of the order. Additionally, Torrington and MPB argue that other parties' comments addressing issues other than margins and import volumes should not be considered unless such parties establish ''good cause'' to consider such additional factors, which in these reviews, they have not done.

As discussed in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and the House Report at 63–64, existence of dumping margins after the order is highly probative of the

[7] These companies filed one submission providing comments on all ongoing sunset reviews covering bearings.

likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline of the order were removed. Further, as noted above, in determining whether revocation of an order is likely to lead to continuation or recurrence of dumping, the Department considers the margins determined in the investigation and subsequent administrative reviews and the volume of imports.

In the instant proceedings, dumping margins above *de minimis* continue to exist with respect to each of the orders. Therefore, given that dumping has continued over the life of the order and respondent interested parties waived their participation, we determine that dumping is likely to continue if the orders were revoked. Because we based this determination on the fact that dumping continued at levels above *de minimis*, we have not addressed the comments submitted by Torrington and MPB with respect to ''good cause'' and sales below the cost of production nor have we addressed the arguments of other interested parties regarding the condition of the U.S. market.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that, consistent with the SAA and House Report, the Department normally will provide to the Commission a margin from the investigation because that is the only calculated rate that reflects the behavior or exporters without the discipline of an order in place. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, we normally will provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty-absorption determinations. (*See* sections II.B.2 and 3 of the Sunset Policy Bulletin.)

In their substantive responses, Torrington and MPB argue that the margins that are likely to prevail should the orders be revoked are the dumping margins found for each company in the original investigations (as opposed to margins calculated in succeeding annual administrative reviews), including margins based on best information available, except where the most current margin, increased by the Department's duty-absorption determination, exceeds the original investigation margin. With respect to BBs, RBC argues that the margins from the original investigation are the margins likely to prevail were the order to be revoked.

NHBB argues that the dumping margins likely to prevail if the orders were revoked would be *de minimis*. NHBB goes on to argue that it would be illogical for companies with significant U.S. bearings investments to undercut that investment by dumping. In addition, NHBB argues that the Department should not report margins from the original investigations. In support of this argument, NHBB notes that the SAA provides that, in certain instances, it is more appropriate to rely on a more recently calculated margin. NHBB asserts that one such instance is where, as in the bearings cases, dumping margins have declined over the life of the order and imports have remained steady or increased. Additionally, NHBB argues that, because the structure of the U.S. domestic industry that exists today bears little resemblance to the industry when the antidumping duty orders were imposed in 1989, the rates from the original investigation are inappropriate as indicators of the rates that would be found upon revocation. Finally, NHBB argues that, in light of changes in the methodology used to calculate antidumping duty margins introduced by the Uruguay Round, use of margins calculated by the Department prior to the URAA would be unfair and contrary to the WTO Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994.

Similarly, NSK Corporation argues that the margins likely to prevail would be *de minimis*. As support, NSK Corporation argues that, were the orders not in existence, the Department would apply the average-to-average methodology used in an investigation as opposed to the transaction-to-average methodology common to administrative reviews to measure the extent of any dumping. In such a case, NSK Corporation believes that any margin found would be below the two percent *de minimis* level applicable in investigations. NSK Corporation argues further that, the Department's unorthodox approach during the original investigation, plus the liberal use of best information available, skewed the results of the original investigation seriously rendering those results inappropriate indicators of the magnitude of the margin likely to prevail were the orders to be revoked.

In their rebuttal comments, Torrington and MPB argue that other parties' comments ignore the Department's stated policies regarding the selection of margins likely to prevail and ignore the Department's duty-absorption findings. Citing to the Sunset Policy Bulletin, Torrington and MPB argue that the Department's policies are clear '' normal reliance on the margins from the investigation as the only margins that reflect the behavior of exporters without the discipline of the order and rejection of margins from administrative reviews in which the Department found duty absorption. Torrington and MPB argue that the two-percent *de minimis* standard is not applicable to sunset reviews. Further, they contend that there is no authority which would authorize or justify the rejection of the investigation rate on the basis of the particular methodology used at the time of the investigation. Additionally, they argue that, with respect to claims that more recent margins should be used based on declining margins accompanied by steady or increasing imports, Torrington and MPB argue that it is the responsibility of such claimants to provide information regarding companies' relative market share. Since no such information was provided they contend, the Department should not accept these assertions since imports of certain BBs have actually declined since the imposition of the order.

In its rebuttal comments, NSK Corporation repeats its point that dumping margins have declined significantly over time with respect to imports of BBs while, at the same time, importations have remained steady or around 20 percent of the U.S. market, showing that foreign exporters do not have to dump to maintain market share.[8]

We agree with Torrington, MPB, and RBC that, normally, we will provide a margin from the original investigation because that is the rate that reflects the behavior of exporters absent the discipline of the order. With respect to NSK's argument concerning the magnitude of the margin likely to prevail, we disagree. As discussed above, we do find that there is a likelihood of continuation or recurrence of dumping. Furthermore, we find the level of dumping likely to prevail is best reflected by the dumping margins we calculated in the original investigation. Specifically, the Department finds that there is no basis to reject margins calculated in an investigation because of

[8] As support, NSK Corporation cites to The Economic Effects of Antidumping and Countervailing Duty Orders and Suspension Agreements, USITC Pub. 2900, Inv. No. 332–334, at 14–26—14–31 (June 1995).

subsequent changes in methodology since changes do not invalidate margins calculated under the prior methodology. Therefore, the dumping margins from the original investigation are the only rates which reflect the behavior of exporters without the discipline of the order, regardless of the methodology used to calculate that margin or the use of best information available (*see* section 752(c)(3) of the Act). As noted above, exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty-absorption determinations.

With respect to NHBB's argument concerning the dumping margin likely to prevail, the Department disagrees. First, NHBB claims that dumping margins have declined over the life of the order and imports have remained steady or increased. However, NHBB provides no evidence to support these claims. Nothing submitted in the course of sunset proceedings indicates that imports have remained steady or increased. In fact, evidence submitted by Torrington and MPB indicate that 1998 import volumes of the subject merchandise are more than 8.1 percent below pre-order volumes (*see* Torrington and MPB's Substantive Response at 10). Regardless of the level of imports, dumping margins at levels above *de minimis* continue, as do imports of the subject merchandise.

In the Sunset Policy Bulletin, consistent with the SAA at 889–90 and the House Report at 63, we indicated that in cases where declining (or no) dumping margins are accompanied by steady or increasing imports, it may be more appropriate to use a more recently calculated rate. Such a rate would reflect the fact that companies do not have to dump to maintain market share in the United States and, therefore, that dumping is less likely to continue or recur if the order were revoked. Alternatively, if a company chooses to increase dumping in order to increase or maintain market share, the Department may provide the Commission with a more recently calculated margin for that company.

The Sunset Policy Bulletin provides that we will entertain considerations of such fact patterns in response to argument from an interested party. Further, we noted that, in determining whether a more recently calculated margin is probative of an exporter behavior absent the discipline of an order, we normally will consider a company's relative market-share data with such information to be provided by the parties. It is clear, therefore, that in determining whether a more recently calculated margin is probative of the behavior of exporters were the order revoked, the Department considers company-specific exports and company-specific margins. Additionally, although we expressed a clear preference for market-share information, in past sunset reviews where market-share information was not available, we relied on changes in import volumes between the periods before and after the issuance of the order. (*See, e.g., Final Results of Expedited Sunset Review: Stainless Steel Plate from Sweden,* 63 FR 67658 (December 8, 1998), and *Final Results of Expedited Sunset Reviews: Certain Iron Construction Castings From Brazil, Canada, and the People's Republic of China,* 64 FR 30310 (June 7, 1999).

Generic arguments that margins decreased over the life of the orders while, at the same time, exporters' share of the U.S. market remained constant do not address the question of whether any particular company decreased its margin of dumping while at the same time maintaining or increasing market share. In fact, such generic arguments may disguise company-specific behavior demonstrating increased dumping coupled with increased market share. In the instant proceedings, we did not receive any company-specific arguments.

Additionally, the SAA at 885 and the House Report at 60, provide that duty absorption is a strong indicator that the current dumping margins calculated in reviews may not be indicative of the margins that would exist in the absence of an order. Since, once an order is revoked, the importer could achieve the same pre-revocation return on its sales by lowering its prices in the United States in the amount of the duty that was previously being absorbed. Therefore, in the Sunset Policy Bulletin we indicated that, in the case of duty absorption, we normally will determine that a company's current dumping margin is not indicative of the margin likely to prevail were the order to be revoked. Further, we indicated that normally we will provide to the Commission the higher of (1) the margin that we would otherwise have reported to the Commission or (2) the most recent margin for that company, adjusted to account for our findings on duty-absorption. For purposes of considering duty absorption for these sunset reviews, we relied on the level of duty absorption found in the administrative review initiated in 1998. See 64 FR 35590 (July 1, 1999).

In their comments, Torrington and MPB argue that the Sunset Policy Bulletin requires that the Department report to the Commission the higher of the margin from the original investigation or the margin from a more recent administrative review adjusted to reflect duty absorption findings. Although we found that duties were being absorbed during the 1998 administrative review (64 FR 35590) for BBs and CRBs from France by SKF and SNR, our calculations found the adjusted margins to be less than the rates from the original investigation.

As noted above, there is no evidence on the record to indicate that the margin of dumping for any particular producer/exporter decreased at the same time that it was increasing or maintaining U.S. market share nor is there evidence on the record to indicate corresponding increases in dumping margins and exports. Therefore, we are relying on the margins from the original investigations as probative of the behavior of producers/exporters without the discipline of the orders.

Based on the above analysis, we will report to the Commission the margins indicated in the Final Results of the Review section of this notice.

Final Results of Review

As a result of these reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the margins listed below:

Manufacturers/ Exporters	Margin (percent)
Ball Bearings:	
INA	66.18
SKF (including all relevant affiliates)	66.42
SNR	56.50
All others	65.13
Cylindrical Roller Bearings:	
INA	11.03
SNR	18.37
All others	17.31
Spherical Plain Bearings	
SKF	39.00
All others	39.00

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 19 CFR 351.305 of the Department's regulation. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is sanctionable violation.

These five-year (''sunset'') reviews and notice are published in accordance

with sections 751(c) and 777(i)(1) of the Act.

Dated: October 28, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–28779 Filed 11–3–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–801]

Final Results of Expedited Sunset Reviews: Antifriction Bearings From the United Kingdom

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset reviews: antifriction bearings from the United Kingdom.

SUMMARY: On April 1, 1999, the Department of Commerce (the ''Department'') initiated sunset reviews of the antidumping duty orders on ball bearings, cylindrical roller bearings, and spherical plain bearings (collectively, antifriction bearings) from the United Kingdom (64 FR 15727) pursuant to section 751(c) of the Tariff Act of 1930, as amended (the ''Act''). On the basis of notices of intent to participate and adequate substantive responses filed on behalf of domestic interested parties and inadequate response from respondent interested parties, the Department determined to conduct expedited reviews. As a result of these reviews, the Department finds that revocation of the antidumping duty orders would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Results of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Eun W. Cho or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1698 or (202) 482–1560, respectively.

EFFECTIVE DATE: November 4, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752(c) of the Act. The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) (''Sunset Regulations''), and 19 CFR part 351 (1998) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin'').

Scope

The products covered by these orders are antifriction bearings (''AFBs'') from the U.K., which includes ball bearings (''BBs'') and cylindrical roller bearings (''CRBs'') and parts thereof. For a detailed description of the products covered by these orders, including a compilation of all pertinent scope determinations, refer to the notice of final results of expedited sunset reviews on antifriction bearings from Japan, publishing concurrently with this notice.

History of the Order

The antidumping duty orders on antifriction bearings from the United Kingdom were published in the **Federal Register** on May 15, 1989 (54 FR 20910).[1] In those orders, the Department announced the weighted-average dumping margins for the following companies and all others:

Company	Ball bearings (''BBs'')	Cylindrical roller bearings (''CRBs'')
Barden Corporation (U.K.) Ltd.; the Barden Corporation.(Barden)*		
NSK Bearings Europe, Ltd. RHP Bearings; RHP Bearings, Inc. (NSK/RHP)	44.02	43.36
SKF (U.K.) Limited (SKF)	61.14	(**)
All-others	54.27	43.36

*Barden was not subjected to the original antidumping investigation.

**SKF made no shipments or sales pertaining to this category during the period of investigation.

[1] See Final Determinations of Sales at Less than Fair Value; Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the United Kingdom, 54 FR 19120 (May 3, 1989), as amended, Antidumping Duty Orders and Amendments to the Final Determinations of Sales at Less Than Fair Value: Ball Bearings, and Cylindrical Roller Bearings and Parts Thereof From the United Kingdom, 54 FR 20910 (May 15, 1989). The crux of the amendment was to reflect the International Trade Commission's determination that critical circumstances for certain respondents did not exist, which was contrary to the affirmative findings thereof by the Department, and to correct ministerial errors.

The Department has conducted numerous administrative reviews since that time.[2] The order remains in effect for all manufacturers and exporters of the subject merchandise. We note that, in the 1995–1996 and 1997–1998 administrative reviews, the Department found that duty absorption had occurred with respect to NSK/RPH and Barden's exports of the subject merchandise to the United States.[3]

Background

On April 1, 1999, the Department initiated sunset reviews of the antidumping duty orders on AFBs from the U.K. (64 FR 15727) pursuant to section 751(c)(6)(A)(i) of the Act. The Department received Notices of Intent to Participate on behalf of Link-Belt Bearing Division (''Link-Belt''), The Torrington Company (''Torrington''), MPB Corporation (''MPB''), Roller Bearing Company of America, Inc. (''RBC''), NSK Corporation (''NSK''), and New Hampshire Ball Bearings, Inc. (''NHBB'')[4] on April 16, 1999, within the deadline specified in section 351.218(d)(1)(i) of the Sunset Regulations. Also, the Department received a Notice of Intent to Participate on behalf of The Barden Corporation (U.K.) Ltd. and The Barden Corporation (collectively referred to as ''Barden'') on April 14, 1999.[5]

We received complete substantive responses on behalf of Torrington, RBC, and NHBB on May 3, 1999 and on behalf of NSK on April 30, 1999. Torrington, RBC, NSK, and NHBB claimed interested-party status as wholesalers, manufacturers, and producers of domestic like products under section 771(9)(C) of the Act. The Department received a complete substantive response from Barden on May 3, 1999. Barden claimed interested-party status under section 771(9)(A) of the Act as a producer, exporter, and importer of the subject merchandise. The Department received all the above substantive responses within 30-day deadline specified in the Sunset Regulations under section 351.218(d)(3)(i).

Also, except NHBB, all the above interested parties, both domestic and respondent, filed rebuttal comments according to section 351.218(d)(4) of the Sunset Regulations. Moreover, NSK and NHBB filed additional comments purportedly pertaining to the propriety of the Department's decision to execute an expedited, 120-day, sunset review.[6]

The Department also received, on May 3, 1999, a Waiver of Participation on behalf of SKF USA Inc. and SKF (U.K.) Limited (collectively referred to as ''SKF''), within the deadline and according to the contents specified in section 351.218(d)(2) of the Sunset Regulations. SKF claimed interested-party status under section 771(9)(A) of the Act as a foreign producer and importer of the subject merchandise.

On May 21 and May 24, 1999, we informed the International Trade Commission (''Commission'') that, on the basis of inadequate response from respondent interested parties, we were conducting expedited sunset reviews of these orders consistent with 19 CFR 351.218(e)(1)(ii)(C)(2). (*See* letter to Lynn Featherstone, Director, Office of Investigations from Jeffrey A. May, Director, Office of Policy.)

In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (*i.e.*, an order in effect on January 1, 1995). Therefore, on August 5, 1999, the Department determined that the sunset reviews of the antidumping duty orders on AFBs from the U.K. are extraordinarily complicated and extended the time limit for completion of the final results of these reviews until not later than October 28, 1999, in accordance with section 751(c)(5)(B) of the Act.[7]

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted these reviews to determine whether revocation of the antidumping duty

[2] See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 56 FR 31769 (July 11, 1991), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany; et al., Amended Final Results of Antidumping Duty Administrative Reviews, 62 FR 32755 (June 17, 1997); Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, 57 FR 28360 (June 24, 1992), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 57 FR 32969 (July 24, 1992), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Sweden, and the United Kingdom; Amendment to Final Results of Antidumping Duty Administrative Reviews, 57 FR 59080 (December 14, 1992), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Amended Final Results of Antidumping Duty Administrative Reviews, 63 FR 8908 (February 23, 1998); Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order, 58 FR 39729 (July 26, 1993), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, Thailand, and the United Kingdom; Amendment to Final Results of Antidumping Duty Administrative Reviews, 58 FR 42288 (August 9, 1993), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Amended Final Results of Antidumping Duty Administrative Reviews, 63 FR 18877 (April 16, 1998); Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders, 60 FR 10900 (February 28, 1995), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From the United Kingdom; Notice of United States Court of International Trade Decision, 62 FR 42745 (August 8, 1997), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, Sweden, and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews, 62 FR 45795 (August 29, 1997); Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Singapore, Sweden, and the United Kingdom, 64 FR 49442 (September 13, 1999); Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 66472 (December 17, 1996), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews, 62 FR 61963 (November 20, 1997); Antifriction Bearings (Other Than Tapered Roller Bearings) and Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 63 FR 33320 (June 18, 1998), as amended, Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Italy, Romania, and the United Kingdom; Amended Final Results of Antidumping Duty Administrative Reviews, 63 FR 40878 (July 31, 1998). Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 64 FR 35590 (July 1, 1999).

[3] See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 62 FR 54043 (October 17, 1997); and Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 64 FR 35590 (July 1, 1999).

[4] In their Notices of Intent to Participate, both NSK and NHBB stipulated that they are affiliated with British exporter(s) and are domestic importers of the subject merchandise.

[5] Although the Sunset Regulations do not require a respondent interested party to file a Notice of Intent to Participate, Barden filed the notice anyway.

[6] See adequacy section of this notice, infra.

[7] *See* Tapered Roller Bearings, 4 Inches and Under From Japan, *et al.*; Extension of Time Limit for Final Results of Five-Year Reviews, 64 FR 42672 (August 5, 1999).

[8] However, when NSK presents information that is relevant with respect to the sunset reviews, it

[6] See adequacy section of this notice, infra.

[7] *See* Tapered Roller Bearings, 4 Inches and Under From Japan, *et al.*; Extension of Time Limit for Final Results of Five-Year Reviews, 64 FR 42672 (August 5, 1999).

orders would be likely to lead to the continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping duty order, and it shall provide to the Commission the magnitude of the margin of dumping likely to prevail if the order is revoked.

The Department's determinations concerning adequacy, continuation or recurrence of dumping, and the magnitude of the margin are discussed below. In addition, interested parties' comments with respect to the continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Adequacy

As noted above, we notified the Commission that we intended to conduct expedited reviews of these orders. On June 10, 1999, we received comments on behalf of NHBB and NSK regarding our determination to conduct expedited reviews. Rather than arguing the propriety of the Department's decision to execute an expedited sunset review, both NSK and NHBB offered new arguments. In their submissions, both parties assert that most of the domestic interested parties that submitted substantive responses are in favor of revocation of the Department's various antidumping duty orders on antifriction bearings. These parties also offered new argument regarding the likely effect of revocation of these orders.

The magnitude of domestic support for continuation or revocation of an order, however, does not enter into the Department's determination of adequacy of participation nor, for that matter, the Department's determination of likelihood. The Department made clear in its regulations that a complete substantive response from one domestic interested party would be considered adequate for purpose of continuing a sunset review (*see* section 351.218(e)(1)). Nowhere in the statute or legislative history is there reference to consideration of domestic industry support during the course of a sunset review (other than the statutory provision that, if there is no domestic industry interest in continuation of the order, the Department will revoke the order automatically). In fact, the Senate Report (at 46) makes clear that the purpose of adequacy determinations in sunset reviews is for the Department to determine whether to issue a determination based on the facts available without further fact-gathering. Further, the statute, at section 751(c)(1), specifies that the Department is to determine whether revocation of an order would be likely to lead to continuation or recurrence of dumping. Section 752(c) specifies that the Department is to consider the weighted-average dumping margins determined in the investigation and subsequent reviews, as well as the volume of imports of the subject merchandise for the period before and the period after the issuance of the order.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its Sunset Policy Bulletin providing guidance on methodological and analytical issues, including the bases for likelihood determinations. In its Sunset Policy Bulletin, the Department indicated that determinations of likelihood will be made on an order-wide basis. (See section II.A.2.) In addition, the Department indicated that normally it will determine that revocation of an antidumping duty order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly. (*See* section II.A.3.)

In addition to considering the guidance on likelihood cited above, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. In the instant reviews, the Department received a waiver of participation from one respondent interested party, SKF. However, at the same time, the Department also received a complete substantive response from another respondent interested party, Barden.

Torrington and MPB assert that dumping of the subject merchandise would resume if the antidumping duty orders were revoked. (*See* May 3, 1999, joint substantive response of Torrington and MPB at 6.) In support of their assertion, Torrington and MPB point to continued dumping of the subject merchandise at levels above *de minimis* after the issuance of the orders. Likewise, while urging the Department to conclude that the dumping of the subject merchandise would continue or recur if the orders were revoked, RBC claims that dumping margins have continued to exist above the *de minimis* level since the issuance of the orders. (*See* May 3, 1999, Substantive Response of RBC at 4 and 5.)

With respect to the import volumes of the subject merchandise, while insisting that the consideration of the import volumes is irrelevant because dumping of the subject merchandise did not cease after the issuance of the orders, Torrington and MPB argue that the post-order declines in import volumes of the subject merchandise provide additional support for their claim that resumption of dumping is likely were the orders revoked. (See May 3, 1999, Substantive Response of Torrington at 9.) Between 1988 and 1989, Torrington and MPB indicate that imports of the BBs from the United Kingdom fell 32 percent in value. *Id.* Also, Torrington and MPB state that the post-order import value of CRBs in each year is lower than the pre-order import value thereof. *Id.* at 10.

On the other hand, NSK argues that revocation of the orders is not likely to lead to the recurrence of dumping of the subject merchandise. (See April 30, 1999, Substantive Response of NSK at 3.) In support of its contention, NSK appears to argue that the dumping margins of the subject merchandise have declined over time and the market share of the subject merchandise remained steady.[8] *Id.* at 14. NSK advocates that the Department's methodology in calculating the weighted-average dumping margins in the original investigation was flawed,[9] that the domestic interested parties lack domestic industry support (therefore their opposition to revocation of the

[8] However, when NSK presents information that is relevant with respect to the sunset reviews, it does not put forth order-specific factual information or evidence. In other words, NSK only makes general references. For example, NSK states that the dumping margins for many of the most significant foreign producers and exporters have decreased over time (NSK's substantive response at 5) and that dumping margins from various countries have declined while subject importations have remained at or around 20 percent of the U.S. market share (*id.* at 14).

[9] In effect, NSK is asking the Department to retroactively apply a post-World Trade Organization (''WTO'') methodology to a pre-WTO antidumping duty determination.

order is insufficient),[10] and that conditions and trends in the U.S. market for bearings are such that producers of the domestic like product prefer the U.S. domestic production.[11] Therefore, by incorporating all the above factors, the only logical conclusion that can be drawn, according to NSK, is that continuation or recurrence of dumping is unlikely if the orders are revoked.

Similarly, NHBB argues that revocation of the orders would not result in continuation or recurrence of dumping. (*See* NHBB's May 3, 1999, substantive response at 5–6.) According to NHBB, internationalization of ball bearing production a significant portion of bearing producers from the countries subject to antidumping duty orders have production facilities in the United States. Thus, NHBB claims that the profit motive of those foreign parent companies would preclude any future dumping because such dumping would undercut the U.S. domestic price structure, thereby causing injury to the very industry of which foreign owners are a part. *Id* NHBB also asserts that import volumes have not declined since the time of the original investigation while, at the same time, dumping margins have declined significantly. *Id*.

Barden, on the other hand, notes that the likely effects of revocation would be a status quo at current low dumping margins or even further reduced *de minimis* levels. (*See* May 3, 1999, Substantive Response of Barden at 5.) Barden acknowledges that the value and volume of imports of the subject merchandise declined substantially immediately after the issuance of the orders and that its export volume of the subject merchandise in 1998 is much less than that of 1987 before the order. *Id*. at 6.

As for the consideration of the weighted-average dumping margins, although Barden deems its most recently determined dumping margin of 2.89 percent statistically insignificant and *de minimis*,[12] Barden does not negate outright the existence of current dumping margin (*Id*. at 5.) nor does Barden try to argue that dumping of the subject merchandise did not exist for any other investigated or reviewed periods.

Barden spends the majority of its resources and energy trying to convince the Department why Barden would not increase, and perhaps may even decrease, its dumping margins in the future. In support of this notion, Barden stresses that it has shifted and continues to shift its production of the subject merchandise to its U.S. facilities, that its dumping margins have been decreasing over time, that it should not bear the margins from the original investigation (because it did not participate in the original investigation), that removing home market sales below the cost of production in the profit component of constructed value is utterly improper and bears absolutely no relation to the actual, profit realized on sales of foreign like product, and that the subject merchandise, which is a highly differentiated and mature industrial product with multifarious application, tends to breed a certain percentage of random or intrinsic dumping. *Id*. at 6–9.

In its rebuttal, Torrington argues that Barden's own admission of decreased import volumes of the subject merchandise after the issuance of the orders strongly supports Torrington's suggestion that continuation or recurrence of dumping is likely should the Department revoke the orders. (*See* May 12, 1999, Rebuttal Comments of the Torrington at 14.) Torrington again insists that continued dumping at levels above *de minimis* since the issuance of the orders should lead the Department to determine that recurrence or continuation of dumping likely. *Id*.

Similarly, in its rebuttal comments, RBC argues that the Department should determine that revocation of the orders is likely to lead to the continuation or recurrence of dumping of the subject merchandise because the import volumes of the subject merchandise substantially declined and dumping continued after the issuance of the orders. (*See* May 12, 1999, Rebuttal Comments of RBC at 2–3.)

NSK argues, while insisting that the Department should conduct a full sunset review rather than an expedited (120-day) review, that the major domestic bearing companies do not agree with the position of Torrington and RBC that revocation of the orders would be likely to lead to continuation or recurrence of dumping.[13] (*See* NSK's May 12, 1999, Rebuttal Comments at 2–3.) NSK also claims that Torrington's other-factors argument, which was primarily based on a history of below-cost-sales argument, is irrelevant to the instant review.[14] *Id*. at 6–7. Last, NSK insists that the lack of industry support should be a crucial factor for the Department to consider in determining the sunset review.[15] *Id*. 7–8.

In its rebuttal, Barden notes that, between 1993 and 1997, imports of the subject merchandise increased 50 percent and that dumping margins have declined over time. (*See* May 6, 1999, Rebuttal Submission of Barden, at 4.) Barden argues that the Department should acknowledge that, during the above five-year period, imports of the subject merchandise have increased or remained stable and that dumping margins have steadily decreased. *Id*. at 6. Therefore, should the orders be revoked, Barden contends, dumping is not likely to recur or continue. *Id*.

As indicated in section II.A.3 of the Sunset Policy Bulletin, the SAA at 890, and House Report at 63–64, the Department considers whether dumping continued at any level above *de minimis* after the issuance of the order. If companies continue dumping with the discipline of an order in place, the Department may reasonably infer that dumping would continue were the discipline removed. After examining the published findings with respect to the weighted-average dumping margins in previous administrative reviews, the Department agrees with the domestic interested parties that the weighted-average dumping margins at levels above *de minimis* have persisted over the life of the orders and currently remain in place for all U.K. producers and exporters of the subject merchandise, in general, and Barden, in particular.[16]

[10] But see section 351.281(e)(i)(A) of the Sunset Regulation. A complete substantive response from at least one domestic interested party would suffice for the Department to conclude that the domestic interested parties have provided adequate response to a notice of initiation. Also, *see* adequacy section of this notice.

[11] As a result, NSK argues that it has expanded its BB production facilities in Ann Arbor, Michigan, and Clarinda, Iowa, and has built new facilities in Franklin and Liberty, Indiana. According to NSK, these were expanded to strengthen its competitiveness as a U.S. producer of BBs in the U.S. market.

[12] However, Barden's suggestion that 2 percent is the *de minimis* standard in an administrative review does not comport with law. In an administrative review, the Department will treat as *de minimis* any weighted-average dumping margin that is less than 0.5 % *ad valorem*s or the equivalent specific rate. *See* section 351.106(c)(1) of the Sunset Regulations.

[13] NSK identifies NHBB, NTN Bearing Corporation of America, FAG Bearings Corporation, Koyo Corporation of U.S.A., NTN Bearing Corporation of America, American NTN Bearing Manufacturing Corporation, and NTN-BCA Corporation as opposing Torrington's view. NSK deems this list overwhelming evidence of record that recurrence or continuation is not likely if the orders were revoked.

[14] According to NSK, the fact that British producers/manufacturers could sustain or even increase their exports of the subject merchandise to the United States while, at the same time, substantially reducing the weighted-average dumping margins would indicate that a history of below-the-cost-sale argument does not amount much.

[15] *See*, however, footnote 11, *supra*.

[16] *See* footnote 2 and 3, supra. The relevant rates for Barden in the BB order and the subsequently

Continued

In addition, consistent with section 752(c) of the Act, the Department also considered the volume of imports before and after the issuance of the orders. The data supplied by the domestic interested parties and those of the United States Census Bureau IM146s and the Commission Data indicate that, since the imposition of the orders, the import volumes of the subject merchandise have declined substantially. Although the import volumes of the subject merchandise during the period 1994–1998 have stabilized and shown an increasing trend, as Barden argued in its substantive response, the highest volume since the issuance of the orders, that of 1997, is still well below the pre-order import volume. (*See* May 3, 1999, Substantive Response of Barden at 6.) Therefore, the Department determines that the import volumes of the subject merchandise decreased significantly after the issuance of the orders.

Given that dumping has continued over the life of the orders and that import volumes of the subject merchandise decreased significantly after the issuance of the orders, the Department agrees with Torrington, MPB, and RBC that dumping is likely to continue if the orders were revoked.

Insofar as the Department made this determination based on the fact that dumping continued at levels above *de minimis* and that the import volumes of the subject merchandise declined substantially after the issuance of the orders, it is not necessary for the Department to address Torrington's arguments regarding a history of below-cost-sales of the subject merchandise in the British market, NSK's contention that the U.S. market conditions and trends are such that future dumping of the subject merchandise is not likely, NHBB's claim that the shifts of production facilities by respondent interested parties and their consequent profit motive preclude future dumping, and Barden's stipulations that the exports of the subject merchandise invariably engender a certain percentage of random or intrinsic dumping, nor is it necessary for the Department to discuss any effects thereof upon this finding.

Magnitude of the Margin

In the Sunset Policy Bulletin, the Department stated that it will normally provide to the Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department will normally provide a margin based on the all-others rate from the investigation. (*See* section II.B.1 of the Sunset Policy Bulletin.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty-absorption determinations. (*See* sections II.B.2 and 3 of the Sunset Policy Bulletin.)

The Department, in its notice of the antidumping duty orders on antifriction bearings from the U.K., established both company-specific and all-others weighted-average dumping margins for the subject merchandise from the United Kingdom (54 FR 20910, May 15, 1989).[17] Since the antidumping orders, we have determined twice that duty absorption has occurred with respect to NSK/RHP and Barden's exports of the subject merchandise.[18]

In their substantive response, at 13–16, Torrington and MPB argue that the likely-to-prevail dumping margins, if the order were revoked, are either the ones determined for each company in the original investigation or the most recently calculated margins adjusted to incorporate duty-absorption rates, whichever are larger. Similarly, RBC raises the duty-absorption issue; however, in the end, RBC just advocates that the Department should apply the margins from the original investigation. (*See* May 3, 1999, Substantive Response of RBC at 6.)

NSK advocates that the Department should reject the weighted-average dumping margins determined in the original investigation and should instead calculate the likely-to-prevail margins based on the average-to-average methodology.[19] (*See* NSK's substantive response at 5 and 7.) NSK argues that, if the Department follows NSK's suggestion and use the average-to-average method, the Department would find that the likely-to-prevail dumping margins would be *de minimis*.[20] *Id.*

NHBB insists that it would be illogical for respondent companies with such significant investments in the United States to undercut their interests in the United States by dumping in the future. (*See* NHBB's May 3, 1999, substantive response at 6–8.) Also, NHBB claims that, since the dumping margins have declined significantly from the margins found in the original investigation, the Department should not report margins from the original investigation. *Id.* Furthermore, in light of changes of methodology in calculating antidumping duty margins to reflect the WTO agreements, NHBB believes that it would be unfair to use the rates found in the original investigation, which preceded the WTO agreements. *Id.*

Also, NHBB argues that the Department arbitrarily presumed the existence of duty absorption in the 1995–1996 and 1997–1998 administrative reviews, thereby making it impossible for respondent interested parties to rebut. To wit, NHBB contends that the Department's current approach pertaining to duty absorption is unreasonable, illogical, circular, groundless, without statutory support, and therefore contrary to law. *Id.* at 8–10.

Meantime, in its substantive response, at 9, Barden argues that the dumping margin that is likely to prevail is either 2.89 percent found in the most recent administrative review or one that is even lower because its dumping margins have been declining while at the same time its export of the subject merchandise remained steady.

In its rebuttal, Torrington argues that Barden's suggestion to select a more recently calculated margin ignores the Department's duty-absorption findings. (*See* Torrington's rebuttal response at 4 and 14.) Moreover, even in the absence of duty-absorption findings,[21] Torrington contends that the Department should select the investigation margins as the margins which would likely to prevail because such margins reflect the behavior of exporters without the discipline of the orders in place. *Id.*

Similarly, RBC argues, in its rebuttal, that the Department should choose the margins from the original investigations because such margins are the best gauge for understanding the behavior of

administrative reviews are as follows: all others-rate for BBs in the order—54.27; first review—14.73; second review—0.85; third review—7.57; fourth review—4.65; fifth review—1.48; sixth review—did not participate; seventh review—3.99; eighth review—6.63; ninth review—2.89.

[17] *See* footnote 1, supra.

[18] *See* footnote 3, supra.

[19] As for reasons, NSK claims that the Department departed from its standard procedure in the investigation in order to complete the case in a fair and timely manner, that the Department's liberal usage of best information available seriously skewed the results of the investigation, and that the Department did not use an average-to-average methodology in calculating the margins. However, *see* the SAA at 891. (The SAA explicitly and unequivocally prohibits the Department, in a sunset review, from calculating margins except under the most extraordinary circumstances.)

[20] According to NSK, this would result for many of the interested parties that export most, if not all, the ball bearings from relevant countries. Therefore, the Department is not even sure whether British producers/manufacturers, such as Barden, are included in NSK's argument.

[21] In its rebuttal, Torrington rejects respondent's arguments, which denounce and reject the Department's duty-absorption findings, by denoting the duty-absorption principle delineated in the Sunset Policy Bulletin.

exporters without the discipline of an order in place. (*See* RBC's rebuttal response at 3.) Also, RBC asserts that Barden's attempt to find a defect in the Department's calculation in determining weighted-average is not persuasive. *Id.*

NSK, in its rebuttal comments at 3–5, disagrees with Torrington's suggestion that the Department should consider the duty-absorption findings. Instead, NSK urges the Department to refrain from utilizing information obtained from the duty-absorption investigations which, according to NSK, violated the antidumping law.[22]

Similarly, in its rebuttal response at 2–6, Barden opposes Torrington and RBC's suggestion that the Department choose the margins from the original investigations as the likely-to-prevail margins because the margins determined in the original investigations are obsolete. Barden argues that because its dumping margins have declined and its imports have increased or remained stable, the Department should use more recently calculated margins. Barden asserts further that, in any event, there is no mandatory requirement that these original margins be selected as likely-to-prevail margins were the orders revoked—in short, the Department should not presume that dumping would continue at the original investigation margins. *Id.* In addition, Barden reiterates that the duty-absorption findings should not be used by the Department because the findings were not calculated in accordance with the statue.[23]

We agree with Torrington, MPB, and RBC that, normally, we will provide a margin from the original investigation because that is the rate that reflects the behavior of exporters absent the discipline of the order. As noted above, exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty-absorption determinations.

With respect to NSK and NHBB's argument concerning the magnitude of the margin likely to prevail, we disagree. As discussed above, we do find that there is a likelihood of continuation or recurrence of dumping. Furthermore, we find the level of dumping likely to prevail is best reflected by the dumping margins we calculated in the original investigations. Specifically, the Department finds that there is no basis to reject margins calculated in an investigation because of subsequent changes in methodology. Since such changes do not invalidate margins calculated under the prior methodology. Therefore, the dumping margins from the original investigation are the only rates which reflect the behavior of exporters without the discipline of the order, regardless of the methodology used to calculate that margin or the use of best information available (*see* section 752(c)(3) of the Act).

With respect to Barden's argument that we should use a more recently calculated margin, we do not agree. By Barden's own admission, the import volume of the subject merchandise declined immediately after the imposition of the orders and thereafter stabilized at the lower level.[24] Moreover, during the period 1994 through 1995, the increases of Barden's export of the subject merchandise to the United States correspond with increased weighted-average dumping margins found by the Department. For example, after steady decline of the weighted-average margins, in the 1995–1996 administrative review, the Department found that Barden's margin increased from 1.48 percent to 3.99 percent. Coincidently, during the same period, Barden's exports increased. Similarly, Barden's further increase (from 3.99 to 6.63 percent) of the weighted-average margins during the 1996–1997 administrative review coincided with further increased imports of the subject merchandise. However, when Barden's weighted-average dumping margins declined (from 6.63 to 2.89 percent) in the 1997–1998 review, so did the import volume of the subject merchandise. Thus, Barden's situation does not merit consideration of a more recently calculated margin.

Accordingly, but for the consideration of duty-absorption findings, the Department would have determined that the likely-to-prevail dumping margins for all British producers/exporters are those from the original investigation were the orders revoked.[25]

Section II.B.3.b of the Sunset Policy Bulletin, the SAA at 885, and the House Report at 60, provide that, if the Department has found duty absorption, the Department normally will provide to the Commission the higher of the margin that the Department otherwise would have reported to the Commission or the most recent margin for that company adjusted to account for the Department's findings on duty absorption. The Department explained that it normally will adjust a company's most recent margin to reflect its findings on duty absorption by incorporating the amount of duty absorption to those sales for which the Department found duty absorption.

In the most recent review,[26] the Department found that duty absorption existed on Barden's exports of BBs (19.43 percent) and NSK–RHP's exports of BBs (31.46 percent) and CRBs (47.88 percent) to the United States. Consistent with the statute and the Sunset Policy Bulletin, the Department will notify the Commission of its findings regarding such duty absorption for the Commission to consider in conducting its sunset review.

Consistent with the Sunset Policy Bulletin, we adjusted the most recent margins to account for duty-absorption findings:[27] for Barden, the adjusted rate for BBs is 3.45 percent; for NSK/RHP, the adjusted rates for BBs and CRBs are 27.63 percent and 72.65 percent, respectively. (See October 4, 1999, Memorandum to File Regarding Calculation of the Likely to Prevail

[22] NSK deems the Department' duty-absorption investigation *ultra vires*. Furthermore, NSK argues that, even if the Department was authorized to conduct such duty-absorption investigations, the Department's use of presumption in the investigation did not fulfill its legal obligations. Thus, NSK argues that the Department should wait until the court has ruled on this matter.

[23] *See* May 6, 1999, Barden's Rebuttal to Domestic Party Substantive Responses at 5. Barden considers the Department's interpretation, expressed in the Sunset Policy Bulletin, too expansive, thus unlawful in applying ''transition orders'' under 751(c)(6)(C) of the Act to duty absorption. In other words, Barden argues that the Department should not have done the duty-absorption investigations in administrative reviews that were initiated in 1996 and 1998. In addition, Barden argues that the methodology chosen by the Department in calculation of duty-absorption rates is arbitrary and capricious. Last, Barden notes its objection to the duty absorption findings is pending with the Court of International Trade. Therefore, it contends that the Department should not use the duty-absorption findings in the instant sunset reviews. *Id.* at 9–11.

[24] Barden notes that import figures are leveling off over the past five years after falling immediately after the issuance of the orders (*see* May 3, 1999, Substantive Response of Barden at 6).

[25] As for Barden's argument that it was not party to the original investigation, and therefore should not be subjected to the margins from the original investigation, section II.B.1 of the Sunset Policy Bulletin provides that for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the all-others rate from the investigation. Inasmuch as Barden did not participate in the original investigation, the all-others rate from the original investigation, as amended, is the appropriate one to report to the Commission as the rate that is likely to prevail if the order is revoked.

[26] *See* Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, Germany, Italy, Japan, Romania, Sweden, and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 64 FR 35590 (July 1, 1999).

[27] With respect to methodology, also *see* Preliminary Results of Sunset Review: Porcelain-on-Steel Cooking Ware from Mexico, 64 FR 46651 (August 26, 1999), and Final Results of Expedited Sunset Review: Brass Sheet and Strip from Germany, 64 FR 49767 (September 14, 1999).

Margins.) For Barden's BBs, the all-others rate from the original investigation is higher than the absorption-adjusted rate. For NSK/RHP, the rate from the original investigation is higher than the absorption-adjusted rate for BBs, whereas the opposite is true for CRBs. Therefore, we will report to the Commission the rates as contained in the Final Results of Review section of this notice.

Final Results of Review

Based on the above analysis, the Department finds that the revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping at the margins listed below:

Manufacturer/ Exporter	Margin (percent)	
	BBs	CRBs
Barden	54.27	.....
NSK/RHP	44.02	72.65
All others	54.27	43.36

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year (''sunset'') review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 28, 1999.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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